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CONSTITUTION  
AND  
LAWS  
OF  
MARYLAND IN LIBERIA;  
WITH AN  
APPENDIX OF PRECEDENTS.

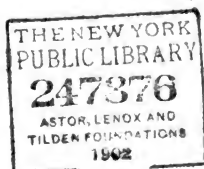
PUBLISHED BY AUTHORITY OF THE  
MARYLAND STATE COLONIZATION SOCIETY.

~~~~~  
SECOND EDITION.  
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BALTIMORE:  
PRINTED BY JOHN D. TOY.

1847. —  
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RESOLVED BY THE MARYLAND STATE COLONIZATION SOCIETY, that the Constitution, heretofore granted by this Society, to the Colony of Maryland in Liberia, shall be and the same is hereby confirmed, and that the five Ordinances which, with the said Constitution, are now printing by John D. Toy, of Baltimore, shall be and are hereby enacted, ordained and confirmed, as the Laws of the said Colony, and the said Book, entitled, 'The Constitution and Laws of Maryland in Liberia,' is hereby approved and declared to be the standard edition of the said Constitution and Laws; and three bound copies thereof shall be prepared, and verified by the signature of the President and the seal of the Society, affixed to this resolution, to serve as authentic copies of the Constitution, and triplicate originals of the Ordinances. One of the said copies shall be deposited in the Maryland State Library at Annapolis, one among the archives of this Society in Baltimore, and one among the archives of the Colony at Harper, to be perpetually preserved for the purposes aforesaid.

*Passed September 29, 1837.*

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ON MOTION, RESOLVED, that a new edition of the Laws and Ordinances of the Society in relation to the Colony of Maryland in Liberia, together with the Property Code that has been prepared by Mr. Evans, be published, and that Mr. Evans be requested to take charge of the same, and superintend the publication of 500 copies.

*Passed May 18, 1847.*

Amoy

CONSTITUTION  
OF  
MARYLAND IN LIBERIA.

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At a meeting of the Board of Managers of the Maryland State Colonization Society, held on the 22d of November, 1833, Mr. Latrobe, from the committee on the subject of a Constitution and Form of Government and Digest of Laws for the territory that may be acquired by said society in Africa, to be called Maryland in Liberia, reported the following form of a Constitution, which, after being read and considered, was on motion by Dr. Baker, unanimously adopted :

The Maryland State Colonization Society of Maryland, one of the United States of North America, to all persons to whom these presents shall come—*greeting* :

WHEREAS, the Maryland State Colonization Society, desirous to hasten, as far as they can, the period when slavery shall cease to exist in Maryland, and believing that this can best be done by advocating and assisting the cause of colonization, as the safest, truest, and most efficient auxiliary of freedom, under existing circumstances, have determined to establish a settlement or settlements, of free coloured people and emancipated slaves, under the auspices and control of the state society, at or near Cape Palmas, on the west coast of the continent of Africa, to be called Maryland in Liberia: And whereas, it is not less the desire of the society that the evil of slavery should be removed from Maryland, than that the emigrants to Africa should find their happiness and prosperity promoted by their change of home; and that, through their instrumen-

tality, the blessings of civilization and the gospel should be extended to a benighted land: And whereas, acting with these views, it becomes the duty of the state society to afford to the settlements which they may cause to be established, a system of equal laws, that shall secure to every emigrant and his descendants, the unalienable rights of life, liberty, and the pursuit of happiness—Therefore, be it known, that the Maryland State Colonization Society, do hereby solemnly enact the following ‘CONSTITUTION,’ as the basis and foundation of the government of any, and every settlement, or colony, which may be established as aforesaid, under their auspices and control in Africa, ratifying and confirming the same, according to its tenor, to all emigrants to such settlements, and their descendants, so long as the powers of government shall continue to be exercised by the Maryland State Colonization Society.

ART. 1. The Maryland State Colonization Society shall have full power and right, from time to time, as they may think fit, to make and ordain rules, regulations and ordinances, for the government of the territory acquired by them in Africa, called Maryland in Liberia, not repugnant to the provisions of this Constitution, until the state society shall withdraw their agents, and yield the government wholly into the hands of the people of the territory.

ART. 2. Every emigrant of full age, before he or she shall be received in Maryland in Liberia, shall read or have read to him or her this Constitution, and sign a declaration to support the same, and they shall in so doing, bind themselves to refrain from the use of ardent spirits, except in case of sickness.

ART. 3. No person shall hold any office in the said territory, who either uses ardent spirits, with the above exception, or traffics in it; and the state society are pledged to carry the principal of abstaining from it, and preventing a traffic in it, into the local government of the territory, and have all the powers necessary for that purpose.

ART. 4. Religion, morality and knowledge, being necessary to good government, and the happiness of mankind, schools, and the means of education, shall forever be encouraged. The utmost good faith shall always be observed towards the natives; their land and property shall not be taken from them without their consent; and

in their property, rights and liberty, they shall never be invaded or disturbed, unless it may become necessary to do so, to repel aggressions on their part: but laws founded in justice and humanity, shall, from time to time, be made for preventing wrongs being done to them, and for preserving peace and friendship with them.

ART. 5. No taxes shall be laid in the territory, except for the purpose of defence, of internal improvement, education, and the support of the local government of the territory.—Duties and port charges, for the same purposes of revenue, shall be imposed, from time to time, at the discretion of the state society.

ART. 6. All elections shall be by ballot, the qualifications of voters to be fixed by the state society.

ART. 7. That the great and essential principles of liberty and free government may be recognized, and forever unalterably established, it is hereby declared, as part and parcel of this Constitution:

1. All men have a natural and unalienable right to worship Almighty God, according to the dictates of their own consciences, and no one shall be hurt, molested, or restrained, in his person, liberty or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship; and all persons demeaning themselves peaceably, as good members of the community, shall be equally under the protection of the laws; and no subordination or preference of any one sect or denomination to another, shall ever be established by law; nor shall any religious test be required as a qualification for any office or trust in the community: and all religious societies in the community, shall, at all times, have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

2. Every member of the community may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

3. The people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures and searches: and no warrant to search any place, or to seize any person or thing, shall issue, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

4. No person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has provided, and no person shall be punished, but by virtue of a law established and promulgated prior to the offence, and legally applied.

5. In all criminal prosecutions, the accused has a right to be heard by himself and counsel: to demand the nature and cause of the accusation, and to have a copy thereof: to be confronted by the witnesses against him: to have compulsory process for obtaining witnesses in his favor: and in all prosecutions, a speedy trial by an impartial jury of the neighbourhood or district in which the offence shall have been committed: he shall not be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or property, but by due course of law.

6. No person shall, for the same offence, be twice put in jeopardy of his life or limb: nor shall any person's property be taken or applied to public use, unless just compensation be made therefor.

7. All courts shall be open, and every person, for an injury, done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered freely without any sale, fully without any denial, and speedily without any delay.

8. No power of suspending laws shall be exercised, except by the authority which has enacted them, or its direction.

9. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted. All persons shall, before conviction, be bailable by sufficient securities, except for capital offences, when the proof is evident, or the presumption great; and the privileges of the writ of 'habeas corpus' shall not be suspended, unless when in cases of rebellion, or invasion, the public safety may require it.

10. The person of a debtor, where there is not strong presumption of fraud, shall not be detained in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

11. No *ex post facto* law, nor law impairing the obligation of contracts, shall be made.

12. The members of the community have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government, for redress of grievances, or other proper purposes, by petition, address, or remonstrance.



13. Every member of the community has a right to bear arms in defence of himself and the community.

14. The military shall, in all cases and at all times, be in strict subordination to the civil power.

15. No title of nobility, or hereditary distinction, privilege, honour or emolument, shall ever be granted or conferred; nor shall any office be created, the appointment to which shall be for a longer term than during good behaviour.

16. Emigration shall not be prohibited.

17. The right of trial by jury shall be forever inviolate.

18. No person shall be debarred from prosecuting or defending any civil cause, for or against him or herself, before any tribunal in the community, by him or herself, or counsel.

19. There shall be neither slavery nor involuntary servitude in the settlements of the Maryland State Colonization Society in Africa, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person, arrived at the age of eighteen years, be held to serve any person as a servant, under pretence of indenture, or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a consideration in good faith, received or to be received, for their services, except as before excepted.

20. This enumeration of certain rights, belonging to the emigrants to the settlements which the Maryland State Colonization Society may make in Africa, and their descendants, shall not be construed to deny or disparage the exercise, by the said society, of all others necessary or incident to government.

21. And lastly, it is hereby declared, that this article shall be construed, reputed and adjudged in all cases most favourably on the behalf and for the best benefit and behoof of the emigrants aforesaid, and their descendants.

**ART. 8.** No alterations shall be made in this Constitution, except by the unanimous consent of all present at a meeting of the Board of Managers, called for the purpose of taking such amendment or alteration into consideration, or by a vote of two-thirds of the members present at two successive meetings of the Board of Managers called as aforesaid, provided that the declaration of rights contained in the seventh article shall in no wise be altered.

Done at the office of the Maryland State Colonization Society, in the city of Baltimore, in the State of Maryland, this twenty-second day of November, in the year of our Lord, one thousand eight hundred and thirty-three.

In testimony whereof, the president of the said society hath hereunto set his hand, and caused the seal of the said society to be affixed hereto, by order of the Board of Managers.

GEORGE HOFFMAN, [L. s.]

President of the Maryland State Colonization Society.

WITNESS:

JOHN H. B. LATROBE,

Cor. Sec. of the Maryland State Colonization Society.

JOHN HOFFMAN, Treasurer.

JAMES HOWARD, Recording Secretary.

NICHOLAS BRICE, V. P.

NATHANIEL WILLIAMS, V. P.

ALEXANDER NESBIT, V. P.

MOSES SHEPPARD,

PETER HOFFMAN,

SOLOMON ETTING,

CHARLES HOWARD,

CHARLES CARROLL HARPER,

SAMUEL BAKER, M. D.

JOHN J. HARROD,

E. G. EDRINGTON, M. D.

WILLIAM GEORGE READ,

F. ANDERSON,

Managers.

## AN ORDINANCE

### FOR THE

*Temporary government of the territory of the Maryland State Colonization Society in Africa, called Maryland in Liberia.*

SEC. 1. *Be it enacted and ordained, by the Maryland State Colonization Society,* That the territory of Maryland in Liberia shall be divided into townships, each of which shall contain, as near as may be, a superficies equal to nine square miles; and, hereafter, a certain number of townships shall be made to constitute a county.

SEC. 2. *Be it enacted and ordained,* That the estates of proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child, or grand-child, to take the share of their deceased parent, in equal parts, among them; and where there shall be no children, or descendants, then in equal parts to the next kin, of equal degree; and among collaterals, the children of a deceased brother, or sister,

of the intestate, shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between the whole and half blood: saving in all cases, to the widow of the intestate her third part of the real estate for life; (that is to say, land and the improvements thereon, in which, at any time during marriage, the intestate had an absolute and unqualified ownership,) and one-third part of the personal estate, (that is to say, all the property held by the intestate at the time of his decease, other than real property,) after the payments of the debts of the intestate.

SEC. 3. *Be it enacted and ordained*, That estates in the said territory may be devised, or bequeathed, by will in writing, or any written instrument, expressing an intention to devise or bequeath, and describing the property intended, so as to identify it, signed by him, or her, in whom the estate may be, (being of full age) and attested by two witnesses, signing the same in presence of each other, and in the presence of the testator. And real estates may be conveyed by any instrument describing, so as to identify it, the estate to be conveyed, and shewing the intention of the person making the conveyance, to convey, signed and delivered by the person (being of full age) in whom the estate may be, and attested by two witnesses.

SEC. 4. *Be it enacted and ordained*, That before such wills shall take effect, they shall be proved, by the testimony of one or both of the subscribing witnesses, to have been executed by the Testator, when he was of sound mind and understanding, before the register (hereinafter mentioned) of the district of the said territory, in which the testator resided, and deposited, with the register's certificate that it has been proved, endorsed thereon, for record among the records of his office.

SEC. 5. *Be it enacted and ordained*, That before such conveyances shall take effect, according to their tenor, they shall be acknowledged before a justice of the peace, (hereinafter mentioned) of the said territory, and deposited for record with the register of the district of the territory, in which the land lies, which is intended to be conveyed: it being the duty of the register, to note, on the back of said conveyance, the time of its being deposited for record. All deeds of real estate by way of pledge, shall be executed, acknowledged and deposited for record, as above, before they shall have any effect.

SEC. 6. *Be it enacted and ordained*, That personal property shall pass by delivery, except where the sale or conveyance thereof is by way of pledge, or where the person conveying the same

retains possession thereof—in which case, the conveyance shall be in writing, and acknowledged, and shall take effect when deposited for record, as in the case of real property.

SEC. 7. *Be it enacted and ordained*, That a wife shall be entitled to dower in all real estate, of which her husband may, at any time, be possessed, during their marriage, in case of her surviving him; and no deed, executed by him, shall have effect to deprive her of such dower, unless she signs the same, and acknowledges, out of the presence of her husband, before the person taking his acknowledgment, that she voluntarily executes it. Sales and conveyances of personal estate may be made, at any time, without the consent of the wife, by the husband alone.

SEC. 8. *Be it enacted and ordained*, That in case any person, possessed of property, real or personal, in the said territory, shall die intestate (without having made a will) or without, in his or her will, having appointed an administrator, until further enactment and ordinance upon the subject, an administrator and two appraisers shall be appointed, in writing, by the agent, which administrator shall give bond,—with security to be approved by the agent, for the faithful discharge of his office of administrator,—to be deposited with and preserved by the register: but no administrator shall take possession of the property of the deceased person, before an inventory thereof shall be made, and the property appraised by the appraisers in writing; which inventory and appraisal shall be affirmed to, before a justice of the peace, and returned to the register, with the justice's certificate of the affirmation endorsed thereon, to be carefully preserved and recorded in a book kept for that purpose; and such administrator may, at all times, be called upon by the parties interested, or any of them, for an account of his administration; be liable to have his appointment revoked, at the pleasure of the agent,—and, together with his securities, be responsible, in his and their persons and property, for the faithful discharge of his office of administrator. A commission, not to exceed ten per cent. may, at the discretion of the agent, be allowed to the administrator, upon the amount that shall actually come into his hands, of the intestate's estate.

SEC. 9. *Be it enacted and ordained*, That the real estate of a deceased person shall not be resorted to for the payment of his debts, until the personal estate shall be exhausted. Creditors shall be allowed four months, after administration granted, in which to present their claims, authenticated by their oath or affirmation,

against the estate of a deceased person. The family of the deceased person, should there be any family, may occupy and use the real estate, without committing any acts to injure it, until the division thereof, unless it is ascertained by the administrator, that the real estate must be resorted to, to pay the debts of the deceased, in which case he may take possession of and sell it at the end of the said four months. It shall be in the discretion of the administrator of a deceased person to pay any claim, presented after the said four months have expired, if he shall deem the same just. At the expiration of six months, after administration granted, the creditors shall be entitled to the payment of their claims, and the heirs to the division of the estate.

SEC. 10. *Be it enacted and ordained*, That where the estate of a deceased person does not admit of partition among those interested, without loss and injury to some of them, the same may be sold, after proper notice, at public sale, to the highest bidder, by the administrator, and the proceeds, after deducting expenses, divided among the parties interested, according to their respective rights.

SEC. 11. *Be it enacted and ordained*, That the agent shall also, in like manner appoint guardians for the persons and property of minors, who have lost both parents, which guardians shall give bond with security, to be approved by the agent, for the faithful discharge of their office, in the care and honest disposition of the property of the minors, that may come into their hands. Guardians' bonds shall be deposited with the register, as in the case of administration bonds. The relation of a guardian to the person of his ward shall be the same, as near as may be, as that of a parent to a child; provided, that the guardian shall not be answerable, pecuniarily beyond the estate of the ward, for the maintenance of the ward.

SEC. 12. *Be it enacted and ordained*, That there shall be appointed from time to time, by the Maryland State Colonization Society, an agent, with the title of Governor, whose commission shall continue in force for the term of two years, unless sooner revoked, by the society. He shall reside in the territory, while in the exercise of his office, and shall represent there the state society, and be invested with all its powers, subject to the Constitution of the territory, and the ordinances and decisions of the state society.

SEC. 13. *Be it enacted and ordained*, That there may be appointed from time to time, by the state society, an assistant agent, subordinate to the agent, whose commission shall continue in force

for the term of two years, unless sooner revoked by the state society. He shall reside in the territory, while in the exercise of his office,—shall be one of the council of the agent,—shall co-operate with and assist him in the discharge of his duties, and, in the event of his absence or death, shall exercise his authority.

SEC. 14. *Be it enacted and ordained*, That it shall be the duty of the agent, to obey and to carry into effect, all the ordinances and regulations of the state society, which are communicated to him: to exercise a general superintendence over the concerns, police and officers of the territory: to make a semi-annual report to the state society, of the condition and relations of the territory, together with an account of all his receipts and expenditures on behalf of the society; to recommend such laws as, from time to time, he may see proper, to the state society; to negotiate and sign all treaties with the natives; to execute all conveyances on behalf of the state society, and superintend the correspondence of the territory. He shall also be the commander-in-chief of the militia of the territory, and issue commissions to all officers in the same below the rank of general officers. All general officers shall be appointed and commissioned by the state society; all company officers shall be elected by the companies respectively, and all intermediate officers shall be appointed by the agent. The agent and assistant agent, shall have all the authority of justices of the peace, except in case of small debts (hereafter mentioned.)

SEC. 15. *Be it enacted and ordained*, That in cases of necessity, where no rule has been made by the state society, the agent, in council, is authorized to make the necessary rules or regulations, of which he shall, by the first opportunity, inform the board of managers of the state society for their approbation, and they shall be in force, until they are revoked by the board of managers and notice of their revocation is received by the agent.

SEC. 16. *Be it enacted and ordained*, That there shall be appointed by the agent, from time to time, a secretary, whose commission shall continue in force one year, unless sooner revoked, and who shall reside in the territory during the exercise of his office. He shall take charge of and carefully keep, all papers, records, and archives of the territory, relating to the government; shall be present at, and exactly record the proceedings of the agent in council; shall publish all the ordinances and notices of the government, so that the people may be informed thereof; issue the agent's orders, as he may direct; keep a copy of the correspondence and

reports of the agent; record in a proper book, all treaties made by the agent; and attend to the recording, by the register, of all other instruments, proper to be recorded, in which the government is interested; and perform generally, such duties as may be imposed upon him by the agent, in conducting the internal affairs and correspondence of the territory.

SEC. 17. *Be it enacted and ordained*, That there shall be appointed by the agent a competent number of justices of the peace, whose commission shall continue in force for one year, unless sooner revoked, for cause. It shall be their duty to take cognizance of all breaches of the peace, or the laws of the territory; to issue their writ to arrest offenders; to take from them security, in all bailable cases, to appear before the proper tribunal, and, in default of security being given, to send the offender to the agent with a certificate of the default; to take security to keep the peace, when allegation is made, upon oath or affirmation, before them, that it will be broken; to issue search warrants; to act judicially, in all criminal cases, and where the offence is theft, and the value of the article stolen does not exceed one dollar, sentencing the offender to restoration of five times the value of the thing stolen, and in default of restitution, sending the offender to the agent, in the custody of a constable, with a certificate of conviction, that such punishment may be inflicted, as may be provided by law in such cases. *Provided*, that no warrant or writ shall be issued, in any criminal matter, or for any alleged breach of the laws of the territory, whereby the liberty of an individual may be restrained, or his or her house or premises searched, except the offence shall be committed in view of the justice of the peace, (when he shall personally arrest the offender, without the form of a writ or warrant,) or upon the oath or affirmation of a credible person, who shall testify to the facts from personal knowledge, or shall state circumstances, which, in the opinion of the justice, make it probable that an offence has been committed, or that there is reason to suspect, that stolen property is in the place (which must be particularly described in the writ or warrant) authorized to be searched.

Justices of the peace shall have jurisdiction in all civil causes, where the amount in dispute between the parties does not exceed twenty dollars, and all fines not exceeding that amount, may be collected before them. They shall have power to summon witnesses at the request of parties, in any cause before them, and to fine them, not exceeding ten dollars for non-attendance, when sum-

moned, or, if in attendance, for refusing to answer questions propounded to them, and not subjecting them to the risk of punishment other than a pecuniary fine. All judgments, given by a justice of the peace, shall be in writing, entered in a book kept by him for the purpose, and either party may, on demand, have a copy thereof.

Justices of the peace shall endorse all acknowledgments, required by law to be made before them, on the instrument acknowledged. Two justices of the peace shall have power to issue their joint writ, directed to the sheriff, requiring him to summon all persons to aid in quelling a riot, and in maintaining the authority of the government.

SEC. 18. *Be it enacted and ordained*, That a competent number of constables shall be appointed by the agent, whose appointment shall continue in force one year, unless sooner revoked. Their duty shall be to execute all writs and summonses, directed to them by a justice of the peace; to interfere to quell all riots, or riotous conduct that may happen in their presence; to arrest all persons guilty of a breach of the peace before them, and take them before a justice of the peace, to be dealt with according to law. Fees for their services, according to a table to be made hereafter, shall be allowed to justices of the peace and constables.

SEC. 19. *Be it enacted and ordained*, That there shall be elected by the qualified voters of the territory, the following officers. A vice-agent, two counsellors, a register, a sheriff, a treasurer and a committee on new emigrants. There shall also be elected, by the qualified voters of every township, a committee of three persons residing in the township, to be called the 'select men:' and all male colored people, twenty years of age, who have subscribed the oath to support the Constitution, and hold land in the territory in their own right, or who, not holding land, shall pay a tax of not less than one dollar, per annum, for the support of education and the purposes of government, shall be entitled to vote for these officers, as well as all other offices that may be filled by the people; and all persons shall be eligible to said offices, provided, that in addition to the said qualifications, they know how to read and write.

SEC. 20. *Be it enacted and ordained*, That previous to each election, the sheriff shall designate by public notice, some convenient place in each district or township, where polls shall be opened, and appoint three judges and a clerk for each of the polls. All elections shall be by ballot; the time of holding the elections shall be the first Monday of March in each year; should any thing



prevent an election from being held, the then incumbents shall hold their offices, until a new election does take place.

SEC. 21. *Be it enacted and ordained*, That the vice-agent shall be elected annually. He shall be a member of the agent's council; he shall aid the agent and assistant-agent in the discharge of their various duties, and in the event of the absence or death of the agent and assistant-agent shall exercise the authority of agent; he shall have all the powers of a justice of the peace, except in the case of small debts.

SEC. 22. *Be it enacted and ordained*, That the two counsellors shall be elected annually, and together with the assistant-agent, and vice-agent, shall constitute a council, which shall deliberate and consult, without the privilege of voting, with the agent, on the appointment of officers, the forming rules and regulations, and the general interests of the territory, whenever requested so to do by the agent. In case of the absence or death of the agent, assistant-agent and vice-agent, the senior counsellor shall exercise the authority of agent.

The assistant-agent and vice-agent, shall also advise with the other members of the council on any subjects connected with the general welfare, as often as they shall think proper, and report the result to the agent if they see fit, or act upon the same in case of his absence.

SEC. 23. *Be it enacted and ordained*, That the register shall be elected every three years. It shall be his duty to record all papers, deeds, wills, inventories and other instruments, which in any way, affect the title to property, that may be handed to him for that purpose; he shall take proof of wills, and certify the same on the will itself. He shall record deeds relating to real estate in one set of books,—deeds of personal estate in another,—wills and probates in another,—inventories in another,—certificates in another,—patents and licenses in another,—and to each volume, he shall make an alphabetical index as he proceeds. He shall be allowed such fees for recording as may be hereafter fixed upon, not to exceed ten cents for every hundred words recorded, and also fees for searches.

SEC. 24. *Be it enacted and ordained*, That the sheriff shall be elected annually. It shall be his duty to execute all summonses, writs, executions and judgments issued by the courts of the territory, and to him directed: to summon juries: to attend either in person or deputy, at the sessions of the courts: to take charge of

all persons, directed to be imprisoned by the judicial authorities, and to be responsible for their safe keeping: to give notice of, and organize elections: and, whenever so required by the joint writ of two justices of the peace, to summon all persons to aid in quelling a riot and in maintaining the authority of the government. He shall give bond with security, to be approved by the agent, to account for and pay over all moneys that may come into his possession, belonging to others in the discharge of his office. He shall have all the powers of a constable, and shall be allowed such fees as may be fixed by law hereafter.

SEC. 25. *Be it enacted and ordained*, That the treasurer shall be elected every three years. He shall take charge of moneys belonging to the government, keeping an account thereof, and distinguishing the several sources from which they accrue. He shall also take charge of all public securities and evidences of debt, in which the government may be interested. He shall deliver up, and pay over the property or money in his keeping, only upon the order of the agent. He shall make out an account of his receipts and disbursements, every six months, and shall furnish one copy thereof, to be recorded among the archives of the colony, and another to be transmitted to the state society.

He shall give bond, with security to be approved by the agent, to account for, and pay over, all moneys that may come into his possession in the discharge of his office.

SEC. 26. *Be it enacted and ordained*, That the committee on new emigrants shall consist of three persons elected annually. It shall be their duty to assist the officers of the territory in providing for the reception, accommodation and provisioning of new emigrants;—to meet at stated periods to hear their complaints and wants, and the reports of the selectmen respecting them, and make known the same to the agent. They shall have, under the control of the agent, the distribution of rations to the new emigrants, and shall make a weekly return to the agent of the number of emigrants on rations, and the quantity distributed to them. The senior member shall be chairman of the committee.

SEC. 27. *Be it enacted and ordained*, That the selectmen of each township shall consist of three persons, to be elected annually by the voters of the township. It shall be their duty to take into consideration the agriculture of the township, its health, the proper objects of medical attention; cause nuisances, prejudicial to the public health, to be removed; assist the committee on new emi-

grants in the discharge of their duties in the township, and act, generally, as conservators of the morals, and promoters of industry in their township.

The senior member shall act as chairman. When they see proper, they may call public meetings in their township, upon subjects connected with the agriculture, health and morals of their constituents, when the chairman shall act as moderator. They shall make a quarterly examination of the schools in the township, and report their number, and the number of their pupils, in writing, to their agent.

They shall attend to keeping clear, and in repair, all streets and roads in the township, and generally perform such duties in the township as may assist in its good government. The chairman shall act as coroner of the township, and shall summon a jury, to ascertain the cause of every sudden and suspicious death that may happen in the township, and report their verdict to the agent. The selectmen shall appoint their clerk, to be called the township clerk, whose duty it shall be to keep a record of their proceedings, publish and serve their notices, and make out, during the first three months of his appointment, a list, or correct the list last made, of all householders and their occupations in the township, a copy of which, when completed, shall be furnished to the agent. It shall also be his duty, within the same period, to make out and hand to the sheriff, a list of all persons in the township qualified to serve as jurors.

(a) SEC. 28. *Be it enacted and ordained*, That, until otherwise provided for by law, there shall be a court held on the first Monday of every month, to be called the court of monthly sessions, the judges of which shall be the agent, (in his absence the assistant, and in the absence of the agent and assistant-agent, the vice-agent,) and two justices of the peace. The justices shall be notified by the agent to attend, two at every court, according to seniority, so that all the justices, in rotation, shall fill the station of judges of the court. The agent, assistant-agent, or vice-agent respectively, as they happen to be upon the bench, shall act as chief judge. The courts of monthly sessions shall have original jurisdiction of all civil and criminal cases other than those committed to the justices of the peace; and shall have appellate jurisdiction in all civil cases whatsoever. The members of the court for the month of January, in every third year, shall appoint the clerk of the court,

(a) The 28th section is repealed.

to act as such for the three years succeeding the date of his appointment. He shall keep a record of the proceedings of the court, and of all judgments pronounced by it, and shall have the custody of its seal. He shall sign and issue all writs and summonses, and shall take charge of all papers in suits before the court, subject to its order. Whenever required, he shall give certified copies, under the seal of the court, of all judgments rendered by it.

SEC. 29. *Be it enacted and ordained,* That no person shall serve as a jurymen, unless he be of the age of twenty-five years, of good name and repute, and shall know how to read and write: and in summoning jurymen, it shall be the duty of the sheriff to summon them in rotation from among all the inhabitants, so that the performance of the duty shall interfere, as little as may be, with ordinary avocations. No one shall be excused from serving as a jurymen, but upon application to the court, stating a sufficient reason,—saving and excepting school teachers, physicians, officers appointed by the state society, vice-agent, counsellors, justices of the peace, constables, secretary, register and collector.

SEC. 30. *Be it enacted and ordained,* That a store-keeper, whose duty it shall be to take charge of the public stores,—a surveyor, whose duty it shall be to locate roads and lots, and when required by the court or agent, or upon individual application to re-survey the same,—an inspector of arms, whose duty it shall be to see that the ordnance, arms and public defences of the territory, are kept in good repair,—a collector, whose duty it shall be to collect and pay to the treasurer, all duties, taxes and charges arising out of the commercial, as well as the internal regulations of the territory,—a public auctioneer, and a librarian, may from time to time be appointed by the agent, to hold their offices for one year, unless sooner revoked, whenever he shall think that the necessities of the territory require it.

SEC. 31. *Be it enacted and ordained,* That there shall be at least one public school in every township of the territory, the teacher whereof shall be appointed by the agent in council. It shall be the duty of every parent to send his or her children, and of every guardian the child or children under his or her care, of a fit age, to school, when there is a public school in the township, until they shall learn to read and write and cast accounts; and every father, or if there is no father, then mother, and if there is neither father nor mother, then guardian, the children of whom, or under whose care, are not sent to school, after being notified thereto by the se-

lectmen, shall be fined, at the discretion of the selectmen, not less than twelve and a half cents, nor more than twenty-five cents, for every month that each child is not sent to school; which fines may be collected, as small debts are, before a justice of the peace, and shall be appropriated to the use of public schools.

SEC. 32. *Be it enacted and ordained*, That all males between the ages of sixteen and sixty, residing in the territory, shall be enrolled in the general militia, and be liable to be called upon, at the discretion of the agent, under officers appointed by him, in the defence of the territory. The volunteer militia shall consist wholly of uniformed volunteer companies, who may elect their own officers, to be commissioned by the agent, and enact by-laws for their government, to be approved by the agent: every such by-laws containing a provision, that each company shall hold itself in readiness, at all times, to perform such actual military services as may be required by the agent. When two or more volunteer companies are formed, the agent shall appoint a major to command them.

Military offences, such as disobedience of orders, absence from and neglect of duty, violation of by-laws, shall be tried by a quarterly court martial, composed of commissioned officers, appointed by the agent, whose sentences shall be in writing, and shall be subject to the agent's approval.

SEC. 33. *Be it enacted and ordained*, That traffic in ardent spirit is expressly prohibited within the territory; and all persons convicted of selling it shall forfeit their licenses as traders, nor shall other licenses be given to them for one year after the date of the conviction; besides being subject to such fine, not exceeding one hundred dollars for every offence, (one-half whereof shall belong to the informer,) as the court, where the conviction takes place, may think proper to impose. A sufficient quantity will be kept in the government stores to supply the demands occasioned by sickness; and here only may ardent spirit be lawfully obtained.

SEC. 34. *Be it enacted and ordained*, That no emigrant shall be permitted to deal with the natives for land, nor for any other thing—labour, food, and clothing, for the actual use of the emigrant, excepted—without the license of the agent, in council, to continue in force for one year, unless sooner revoked, being first had and obtained. No person shall carry on trade of any kind in the territory, without the license of the agent being first had and obtained.

SEC. 35. *Be it enacted and ordained*, That every man with a wife, or man or woman, with a child or children, on arriving in the

territory, shall have conditionally, for him or herself and family, a farm lot, containing five acres of land, which shall be his or her own, absolutely, upon condition, that, within two years after receiving it, he or she puts, or causes to be put, improvements upon another lot, to be designated by the agent, equal to those which were upon his or her lot, when it was first given to him or her, or which were afterwards put there, for him or her, at the expense of the government. Or, if within two years after he or she shall have received a vacant unimproved lot, should he or she select such, or the agent in his discretion give such, he or she shall clear one acre of it, and erect a substantial native house thereon, to the satisfaction of the agent. If these conditions should not be complied with, the lot shall be forfeited and belong again to government. Unmarried men, of full age, shall have each a half farm lot upon the same conditions as above. If the man marries, or if he has the whole of his half farm lot in good cultivation, he shall have the entire farm lot, of which he before had but one-half. If a man, a member of a family that already has a lot, marries, he shall have a lot upon the same conditions that lots are given to new emigrants, as above.

The agent may, in his discretion, if an emigrant desires, give to him or her, instead of a farm lot, a town lot: but in such case, the town lot must be cleared, fenced, and a good house, to be approved by the agent, must be built upon it within one year, or the same shall be forfeited. Any emigrant, who is the absolute owner of a farm lot, may have a town lot, at the discretion of the agent, on paying a price therefor, and clearing, building on, and fencing the same, within one year: and an emigrant, who is the absolute owner of a town lot, may have a farm lot, at the discretion of the agent, on paying a price therefor, and performing the same conditions that are imposed upon new emigrants.

When an emigrant receives a lot in the first instance, the agent shall give to him a certificate, containing the condition on which he is to become the absolute owner: and when the condition is complied with, the certificate shall be exchanged for an absolute deed.

Persons holding town or farm lots are to keep the streets and roads contiguous thereto clear and in good travelling order, to the middle thereof, and to cultivate such trees as may be planted or left standing there for shade.

In the first settlement of the territory, assistance may be afforded to emigrants in clearing, fencing, and building on their own lots, at the discretion of the agent; and, when necessary, on their arrival,

rations shall be given to them for their support; provided no person shall receive rations for a longer period than six months after his arrival.

Should the agent deem proper, he may cause long native houses to be built, in convenient places, in which new emigrants may be received on their arrival, remaining there until they can get a house built on their own lots, or otherwise provide for their own accommodation, provided that they shall not be entitled to remain in the said long houses longer than six months from the time of their arrival in the territory.

SEC. 36. *Be it enacted and ordained,* That no person shall own land in the territory, who does not reside therein.

SEC. 37. *Be it enacted and ordained,* That until a more full code shall be prepared, the following general rules shall regulate the punishment of offences, not hereinbefore provided for, in the territory:

Murder, rape, setting fire to a house at night, in which a person or persons then reside, shall be considered capital crimes, and shall, on conviction, be punished with death; trading in slaves shall also be punished with death. Sedition, mutiny, and insubordination to the lawful authorities, shall be punished by the court of sessions, on conviction, by exile, fine and imprisonment, labour on the public works, or farm, with a clog, and close imprisonment at night, or all or any of these punishments. Quarrelling, riot, Sabbath breaking, drunkenness, and profaneness, may, upon conviction in the court of sessions, be punished by fine and imprisonment.

Carnal illicit intercourse with native women shall be punished, on conviction, by fine and imprisonment, for the first offence; and a repetition of it shall be punished, on conviction, by fine and imprisonment, labour on the public farm or works, and close confinement at night.

All other criminal offences, cognizable by the court of monthly sessions, may be punished by fine and imprisonment, labour, with a clog, on the public farm or works, with close confinement at night, and exile, in the discretion of the court, and according to the nature of the crime.

Criminal offences, cognizable by justices of the peace, shall be punished by fine and imprisonment, labour on the public farm, and close confinement at night. In case of failure to find security for good behaviour, when required, the person so failing shall perform such labor on the public farm, with close confinement at night, as

the agent may deem proper, until he shall find security, or the object, for which it was required of him, shall have been answered.

Persons failing to find security to appear at court to answer criminal charges against them, may, at the discretion of the agent, be compelled to work on the public farm, and subjected to close confinement at night, until the meeting of the court.

SEC. 38. *Be it enacted and ordained*, That it shall be the duty of the agent to cause to be cleared and cultivated, in each township, a public farm, of such extent as he may think desirable, to be under the management of a person appointed by the agent, unless before appointed by the state society.

Persons who are, at any time, without means of support after the period has elapsed during which they are permitted to draw rations; persons sentenced by the proper authorities to work on the public farm,—shall be made to work in the cultivation of this farm, and its produce shall be applied to their support, in the first instance, and afterwards to the use of the government.

In the first organization of a settlement, the agent may require, if he thinks it necessary for the public good, that all male persons, in good health, shall labour for a time on the public farm, for the general support.

Attached to each public farm, there shall be one or more long native houses, for the accommodation of the labourers; a part shall be allotted to the accommodation, expressly, of persons labouring under sentence of the law, which shall be strong enough to confine them at night.

SEC. 39. *Be it enacted and ordained*, That the power of pardoning offences belongs to the agent.

SEC. 40. *Be it enacted and ordained*, That bed and bedding, wearing apparel, cooking utensils, an axe and a hoe, shall in all cases be exempted from liability for debts incurred by their owner.

SEC. 41. *Be it enacted and ordained*, That no person shall reside in the territory, without permission of the society, or the agent.

SEC. 42. *And whereas*, Although circumstances require, that the government of the said territory should remain in the state society for the present, yet the time is looked forward to, when the people shall assume the government to themselves exclusively; and as it is the desire of the state society, to prepare them for that period, in such a manner, as will best guaranty their prosperity, as an independent people; and whereas it is proper, that the course contemplated by the state society, should be clearly explained in the



beginning, for the satisfaction of those who may abandon their present country, for Africa, the country of their fathers, therefore,

*Be it enacted and ordained,* That, so soon as there shall be five thousand male inhabitants in the territory in Africa, governed by the state society, upon giving proof thereof to the agent, they shall receive authority, with time, and place appointed, to elect representatives to represent them in a general assembly; provided, that for every five hundred male inhabitants there shall be one representative, and so on progressively; with the number of male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which, the number and proportion of representatives shall be regulated by the assembly itself: *provided*, that no person shall be eligible to be elected as a representative, unless he has resided three years in Maryland in Liberia, and shall hold real estate in the territory, in his absolute possession; nor shall any person vote for a representative, who is not qualified, as prescribed for voters, for the offices herein before enumerated.

The representatives, thus elected, shall serve for the term of one year, and in case of the death of a representative, or his removal from office, the agent shall cause a new election to be held by his constituents, for a member in his stead, to serve the residue of the term.

The general assembly or legislature, shall consist of the agent, legislative council, and house of representatives. The legislative council shall consist of five members, to continue in office three years, any three of whom to be a quorum; and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the agent shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, not of their own body, having the qualifications of representatives, and return their names to the state society, five of whom the state society shall commission to serve as aforesaid; and whenever a vacancy shall occur in the council, by death, resignation or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid for such vacancy, and return their names to the state society, one of whom the state society shall appoint and commission, for the residue of the term; and every three years, at least six months before the expiration of the time of service of the members of the council, the said house shall nominate the ten persons qualified as aforesaid, and

return their names to the state society, five of whom the state society shall appoint and commission, to serve as members of the council three years, unless sooner removed. And the agent, legislative council, and house of representatives, shall have authority to make laws in all cases for the good government of the territory, not repugnant to the constitution of the territory, and the ordinances and decisions of the state society, until the government shall pass wholly into the hands of the people of Maryland in Liberia; and all bills passed by a majority in the house, and a majority in the council, shall be referred to the agent for his assent; but no bill or legislative act, whatsoever, shall be in force without his assent. The agent shall have the power to convene, prorogue and dissolve the general assembly, when in his opinion, it shall be expedient.

SEC. 43. *Be it enacted and ordained,* That whenever the council of five herein before mentioned, shall come into office, they shall supercede the counsellors, herein before mentioned, whose powers and functions they will at once perform.

SEC. 44. *Be it enacted and ordained,* That, until the state society shall wholly withdraw their agent, and give up the government of the territory to the people thereof, all commissions, patents, licences, treaties, deeds of public lands, rules and regulations, whether issued by the state society or its agent, shall be in the name of the Maryland State Colonization Society.

SEC. 45. *Be it enacted and ordained,* That the agent shall have the power at his discretion, to extend the time herein before prescribed, for a compliance with the conditions necessary to vest the absolute ownership of a farm, or town lot, in the person obtaining the same, in case the clearing, fencing or building, shall have been actually commenced thereupon.

## AN ORDINANCE

*To provide for taking care of the moveable property of the Maryland State Colonization Society, in Africa and for the protection of their interests in the Colony of Maryland in Liberia, being supplement No. 1 to the Ordinance for the temporary Government of the Colony of Maryland in Liberia.*

SEC. 1. *Be it enacted and ordained by the Maryland State Colonization Society,* That there shall be a factor or factors of this society, resident in Africa, whose duty it shall be to take charge and care of all the moveable property of this society, within his or their reach, to provide for the security of the same, and exclusively to represent and take care of the interests of this society, regarded as a mere corporation, but who shall have, as such, no political power or authority, nor any right to intermeddle with the government or soil of the colony.

SEC. 2. *And be it enacted and ordained,* That the Agent of the society, appointed by it, shall be the principal factor for the time being, and shall have an absolute control over all the others, and in case of his office becoming vacant the assistant-agent appointed by this society, shall be the principal factor, and shall have the same control and authority.

SEC. 3. *And be it enacted and ordained,* That other factors may be appointed, by the principal factor for the time being, by writing under his hand, and in the event of a vacancy in the office of principal factor, shall become principal factors in the order of their seniority, and if there shall at any time be no other factor of this society, the colonial secretary for the time being shall perform the duties of factor.

## AN ORDINANCE

*To encourage the growth of Cotton in the Colony of Maryland in Liberia, to provide a circulating medium for the same, and to promote the general welfare thereof.*

SEC. 1. *Be it enacted and ordained by the Maryland State Colonization Society*, That all taxes, fines, fees, debts, damages, costs, dues, sums of money, and demands whatever, payable within the bounds of the colony of Maryland in Liberia, by or to the Maryland State Colonization Society, its agents or factors, or any other person or persons whatever, or which shall be recovered, or attempted to be recovered, by any legal process within the said colony, shall be payable, at the choice of the party called on for payment, in good clean cotton, grown within the colony, at the rate of ten cents per pound; and good clean cotton, of the growth of the colony, is hereby declared a legal tender, within the said colony, at the rate of ten cents per pound.

SEC. 2. *And be it enacted and ordained*, That no cotton not grown within the colony, shall be a legal tender in any case whatever, whether for money, or on contracts payable in cotton, unless upon contracts stipulating for foreign cotton.

SEC. 3. *And be it enacted and ordained*, That with a view of settling all differences which may arise in reference to what shall be considered good clean cotton, of the growth of the colony, agreeably to the terms of this ordinance, there shall be annually appointed, by the governor of Maryland in Liberia, three discreet persons from among the colonists, in each county, to be called *Inspectors of cotton*; to any of whom, all differences as to weight, quality, or origin, shall be referred, whose decision shall be conclusive: *Provided*, nevertheless, that either party who may consider him or herself aggrieved by the decision of such single inspector, may, within twenty-four hours after such decision, appeal to the three inspectors,—the decision of any two of whom, as to the weight, quality, or origin of the cotton submitted to them, shall be final and without appeal. Should a vacancy occur, from any cause,

in the office of inspector of cotton, at any time between the annual appointments aforesaid, it shall be the duty of the said governor, forthwith to supply the same, until the next annual appointment. The same right of reference and appeal here given to individuals, shall be applicable to all cases where the government of the colony pays or receives cotton in payment.

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## AN ORDINANCE

### *Relative to the Assistant Agent.*

SEC. 1. *Be it enacted and ordained by the Maryland State Colonization Society,* That the assistant-agent of the State Society, in Maryland in Liberia, shall in like manner with the agent, be prohibited from engaging either directly or indirectly, in Maryland in Liberia, or elsewhere, in trade or traffic of any kind on his own or any other account, except that of the society, when required.

# AN ORDINANCE

## FOR THE REDRESS OF INJURIES IN THE COLONY OF MARYLAND IN LIBERIA.

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*Be it enacted and ordained by the Maryland State Colonization Society, That the following principles and rules shall have the force of law in the Colony of Maryland in Liberia.*

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### TITLE I.

#### OF INJURIES.

1. An injury is an unlawful damage done to another, and is the proper subject of an action. It does not, generally, depend upon the intention of the wrong-doer whether an act is an injury or not. A bad design is not necessary to the existence of an injury, although it is to the existence of a crime. The object of actions for injuries is to redress the injured party, not, like that of prosecutions for crimes, to punish the guilty.

2. Every act which is prejudicial to the interest of another is an injury, unless it be warranted by some law.

3. An omission is not generally an injury, but where a party is bound by contract, official duty, or law, to do an act, and omits to do it, or where, in consequence of an omission, an act of the same party, otherwise harmless, becomes prejudicial to the interest of another, such omission is an injury, for which an action will lie.

4. Every person is liable to an action for all injuries committed by himself or his wife.

5. Every person is liable to an action for all damages which arise from the negligence, carelessness, or unskilfulness of himself or his wife at any time, or of his agents or servants while employed in his business; and also for all damages committed by any animal belonging to him, or under his care or charge, provided such damage be one which such animal was likely to commit, either from

the general habits of its species, or from any vicious habits of the particular animal, known to the owner or other person intended to be charged. All such damages are injuries.

6. Every man is bound to use his own property so as not to damage his neighbour. If any person make use of his own property in a manner prejudicial to his neighbour's interest, it is an injury.

7. Injuries either to the person, reputation, or domestic relations of another, are called personal injuries. The breach of a promise to marry is a personal injury.

8. Domestic relations are those of husband and wife, parent and child, guardian and ward, master and servant.

9. Personal injuries die with the person, and no action for them can be maintained by or against representatives or trustees. A man who has assigned his property for the benefit of his creditors is still entitled to maintain, and liable to, actions for personal injuries.

10. Omitting to do any act which a man has contracted to do, or doing any act which a man has contracted not to do, is an injury by means of the violation of a contract.

11. A contract is an agreement entered into by the assent of two or more minds, by which one party undertakes to give some valuable thing, or to do or omit some act, in consideration that the other party shall give, or has given, some valuable thing, or shall do, or has done, or omitted, some act. The consideration of a contract may be any thing which is troublesome or prejudicial in any degree to the party who performs or suffers it, or beneficial in any degree to the other party. An agreement without such a consideration is not a contract, but only a promise. The violation of a promise made without a consideration, although most frequently an immoral act, is not an injury for which an action at law will lie.

12. If one party to a contract is guilty of a fraud, which deprives the other party of the whole, or most important part, of the benefit of the contract, or neglects or refuses to perform the whole of his part of the contract, or so nearly the whole thereof, that what he performs is only nominally beneficial to the other party, it is not an injury for such other party to refuse to comply with his part of such contract, and no action will lie against him for so doing. But if the fraud, refusal, or neglect to perform, still leave a material and beneficial part of the contract which has been performed by the fraudulent, negligent, or refusing party, an action may be maintained by such party for the refusal or neglect of the other party to perform his part of such contract. But in such action the fraud, ne-

glect, or refusal of the plaintiff, to perform any part of the contract, may be shewn to diminish the amount of the debt or damages to be recovered. Nevertheless, where parties have stipulated that things shall be done in a particular order, a plaintiff must shew that he has performed the act first to be performed by him, or that the defendant has dispensed with the performance thereof, before he can recover damages for the non-performance of a subsequent act.

13. No action can grow out of an immoral or illegal contract. The violation of such a contract is not an injury.

14. All contracts having any connexion with the slave trade, however remote such connexion may be, provided the parties to the contract are aware of its existence, are, with the exception in the next section, both immoral and illegal, and it is no injury to violate such a contract.

15. Contracts tending to the suppression of the slave trade are legal and valid.

16. All bets, and wagers, and contracts for the payment of money, or the delivery or transfer of any valuable thing upon any contingency or event, or upon the decision of any question, dispute, or controversy, are illegal, except contracts made and intended, by way of insurance or indemnity, from an actual loss or damage, sustained by means of such event, contingency, or decision. All contracts to pay money, or deliver, or transfer any valuable thing which has been won or lost at any game of chance or skill, to pay, or deliver, or transfer money or other thing, in lieu of any money or other thing so won or lost, and in general all wagering and gaming contracts, are also illegal. All contracts to indemnify any person from the consequences of any violation or omission of official duty, or other breach of the law, are also illegal. The violation of any of the contracts mentioned and declared illegal in this section, is not an injury.

17. Contracts to indemnify a public officer from the consequences of a mistake in the execution of a writ directed to him, are not within the meaning of the last section, and the violation of such a contract is an injury.

18. Injuries to property, other than violations of contract, may be committed by destroying it, by taking or detaining it from the possession of the owner, by any act, or unlawful omission, which may diminish its value, or lessen its security, or, lastly, by using it without consent of the proprietor.

19. The person in possession of any property, of any descrip-



tion, is to be considered as the owner thereof, within the meaning of the last section, as against all but the true owner. The person in possession of any property, may maintain any action for any injury done to it, or to him, in respect thereof, unless the defendant can shew that he has a better title to such property than the possessor thereof.

20. Injuries to persons may be committed by striking, or attempting to strike, by confining, imprisoning, or detaining a person.

21. Any of the acts mentioned in the last section, may be justified if done in self-defence, or in the exercise of the lawful authority of a parent over a child, a guardian over a ward, a master or mistress over an apprentice, a public officer over a person in his custody for the purpose of being compelled to work, or of any other lawful authority; provided, that the degree of violence used is not more than a jury shall deem proper and reasonable under all the circumstances of the case.

22. Injuries to the reputation may be committed by defamation, or by commencing a malicious action, suit, or prosecution, or other proceeding.

23. Defamation is an injury offered to the reputation of another, by an allegation which is not true. Defamation may be made verbally, or by signs, which is called slander, or by writing or painting, which is called libel.

24. The injury of defamation is committed when the words, signs, or figures used, convey the idea either—1st. That the person to whom they refer, has been guilty of some crime or offence punishable by law. 2nd. That he or she has done some act, or been guilty of some omission, which, although not a crime, is of a nature to make people avoid social intercourse with him or her, or lessen their confidence in his or her integrity. 3rd. That he or she has some moral vice, or bodily, or mental defect or disease, that would cause his or her society to be generally shunned. 4th. That his or her general character is such as to make persons avoid his or her society, or lessen their confidence in his or her integrity.

25. It is also the injury of defamation to make use of words or representations, the tendency of which, is to bring upon the person to whom they refer, the hatred, ridicule, or contempt of the public, or to deprive him of the benefit of social intercourse.

26. It is defamation and an injury to assert, or make representations importing that the party referred to, wants the necessary talents or knowledge, or is otherwise incompetent to perform or

conduct the office, business, profession, or trade in which he is engaged, or is dishonest in his conduct therein.

27. It is not an injury to make true statements of facts, or express any opinion, whether such opinion be correct or not, as to the qualifications of any person for any public office, with an honest intention to give information to those who have the power of appointing or electing to such office. Nor is it an injury to make true statements of facts, or express the opinion which he who gives it entertains, whether correct or not, relative to the integrity or other qualifications to perform the duties of any station, profession, or trade, when it is honestly done, by way of advice to any person who has asked it, or to whom it was a duty arising either from law or social connexion, or from humanity, to give such advice. Nor is it an injury to make or publish any criticism or examination of any work of literature, science, or art, or to express an opinion, whether correct or not, on the qualifications, merits, or competency of the author of such work, in relation thereto, although such criticism, examination or opinion, should produce damage to the party to whom it refers; provided such criticism, or expression of opinion, be not intended to cover a malicious design to injure the party to whom it refers. All statements of facts, made under the circumstances mentioned in this section, shall be taken to be true until the contrary appears, or malice is shewn.

28. All those who make, publish, or circulate a libel, are guilty of the injury of defamation.

29. He is the maker of a libel who originally contrived it, and either executed it himself, or caused it to be done by others. He is the publisher who executes the mechanical labour, who writes, paints, copies, engraves, or prints it. He circulates a libel who knowing the contents, sells, gives, distributes, reads it to others, or exhibits it.

30. He is not guilty of an injury who only gives or lends a book or paper containing a libel, or reads it to another, after it is already in general circulation, unless some circumstances are shewn which prove that it was done with a design to injure, or unless some special damage shall have arisen from his act.

31. No action can be maintained for defamation on account of any thing said or written, whether as judge, party, juryman, witness, or agent for a party, in a court of justice, or in the course of a legal proceeding, or in any investigation or conference preparatory to a legal proceeding; provided, that what is so said or writ-

ten be relevant to the proceeding, investigation, or matter in hand, or preparing for, and is not introduced for the sole purpose of injuring the party to whom it refers.

32. An answer justifying a former libel or slander as true, which has been withdrawn, or on which no question of fact shall have been taken, is not within the protection of the last section, and may be deemed an injury. But as an injury, it shall be considered only the act of the party in the cause, and not of any agent of his or other person.

33. The word 'verbally' used in the definition of slander, means the utterance of words by the voice, and the words 'by signs' comprehend every motion of the fingers or other gesture that is used and understood to communicate ideas.

34. The word 'writing' in the definition of libel, and the word 'writes' in the twenty-ninth section, comprehend not only manuscript, but printing, engraving, etching, lithography, or any other means now known, or which may hereafter be discovered or invented to make words visible. The words 'painting' and 'paints' include not only the art so called, but drawing, engraving, etching, lithography, or representing figures in any other way. It also comprehends hieroglyphics, or the representation of words by objects which they signify.

35. It is slander and an injury to repeat the contents of any libel, or the words or substance of any slander, unless in the cases otherwise provided for in the thirtieth section, or unless the defendant state, at the time of doing so, the name of the person from whom he heard the slander, or unless the defendant shew that he was not actuated in so doing by any desire to injure the person defamed. But if special damages can be shewn to have arisen from such repetition, it shall be deemed an injury, notwithstanding any provision of this section.

36. Every false statement is an injury and defamation, if any special damage arise therefrom.

37. Special damage is any loss or inconvenience accruing to the plaintiff, which can be specially traced to the conduct of the defendant. Where special damage is relied upon, it must be stated in the complaint and proved.

38. A malicious action, suit, prosecution, or other legal proceeding, is one brought against a person for a matter of which he hath been before lawfully acquitted, or finally discharged, or one totally without any reasonable cause or foundation. The essential facts to

sustain an action for a malicious action, suit, prosecution, or proceeding, are the absence of reasonable cause for the original action, suit, prosecution, or proceeding, the termination thereof in favour of the party against whom it was brought, and an actual damage of any sort sustained by such party. Although the action for a malicious action, suit, prosecution, or proceeding, is classed among actions for injuries to reputation, any species of damage is sufficient to sustain it. Although called malicious, it is not necessary to prove an actual malicious intention; the malice may be inferred from the absence of reasonable cause for the proceeding.

39. There is no injury to reputation which is not provided for in the preceding sections, commencing with the twenty-second, and terminating with the last preceding one.

40. Defamation of title is not an injury to reputation, but to property. It consists in falsely alleging that a person has no title, or only a defective title, to his property; it is only an injury when special damage, as defined in the thirty-seventh section, can be shewn to have followed.

41. Injuries to the domestic relations may be committed by adultery, by the seduction of a wife or daughter, enticing or taking away, detaining or confining the wife, child, ward, or servant of any person, or an idiot or insane person, from his or her legally appointed trustee or guardian; by harbouring or assisting any person sustaining the relation of wife, child, ward, or servant, who has unlawfully left the protection or service of his or her husband, parent, guardian, master, or mistress, or by beating or otherwise injuring the wife of any person, or by beating or otherwise injuring any person sustaining any of the domestic relations, in such a manner as to incapacitate him or her from performing the duties of such relation.

42. Every person is warranted by law in employing himself and his property in any honest business, occupation, or pursuit; although his so doing may be prejudicial to the interest of others, by way of rivalry or competition. Any prejudice or damage sustained by any person in consequence of fair competition in business, is a damage, but not an injury.

43. No man is bound to alter the natural condition of his property, for the benefit or accommodation of his neighbour, or to accommodate his improvements to those of his neighbour. Neither an omission to do so, or any damage arising from such omission, can be regarded as an injury.

44. An infant is capable of committing and responsible for an in-

jury, and consequently responsible for violating a contract made by those whom he represents, or under whom he claims, and which is binding on him as a representative or assignee, or on his property, although he is not capable of making a contract.

45. Every person under twenty-one years of age is an infant.

46. A married woman is capable of committing an injury, and for every such injury her husband is responsible in an action against himself, although it may consist in the violation of a contract binding on such married woman, as a representative or assignee, or on her property, or made by herself before marriage. A married woman cannot make a contract to bind herself, although she may contract as her husband's agent; he will be bound by every such contract, and the agency may be directly proved or inferred from circumstances and the usages of society. A wife is presumed to be her husband's agent in providing for his family, and clothing herself and his female children, and males under the age of fifteen; but this presumption may be contradicted by proof to the contrary.

47. An idiot or insane person is capable of doing an injury, though not of making a contract, or committing a crime, and is responsible for an injury, though not for a crime; he may be responsible for the violation of a contract made by another person whom he may represent, in the same manner as an infant, under similar circumstances, and not otherwise. He shall be also liable for a violation of a contract made by himself before his insanity.

48. No judicial act, done by a judge or other judicial officer, within his jurisdiction or authority, or any omission to do such act, can ever be deemed an injury, although if the judge or officer act corruptly or maliciously, or wilfully refuse or neglect to do his duty, it is a crime. This section is to be considered as controlled by the provisions of the twenty-third chapter of the second title, on the subject of writs of habeas corpus.

49. No ministerial officer is guilty of an injury in executing any writ directed to him by any authority or tribunal, having jurisdiction over the place where the writ is executed, and having authority to issue similar writs. If the writ shall have been improperly obtained, or the court or other tribunal has exceeded the precise limits of its jurisdiction, a remedy may be had against the persons who procured the issuing of the writ.

50. A ministerial officer who does any act under or by colour of any writ which such writ does not authorize, is guilty of an injury, if his act produce damage to any person.

51. The object of actions for the redress of injuries, being the indemnification of the injured, and not the punishment of the injurer, it follows that the measure of damages in such actions is the actual amount of loss or inconvenience sustained by the plaintiff, without any reference to the degree of misconduct of which the other party may have been guilty. The only exceptions to this rule are those contained in the next section.

52. Adultery, the seduction of a wife or daughter, illegally taking away or harbouring a wife or a child, ward or apprentice under twenty-one years old, or enticing an idiot or insane person from his or her legally appointed trustee or guardian; the breach of a contract, engagement, or promise to marry; injuries to the reputation for which an action will lie without alleging and proving special damage, and the injuries for which remedies are given by the twenty-third chapter of the second title, are injuries of a peculiar nature, and partake of a criminal character. Actions for the above enumerated injuries partake of the nature of criminal prosecutions. They are exceptions to the rule for the measure of damages laid down in the last section, and a jury in estimating damages in such cases, may take into consideration the misconduct of the defendant, and increase the damages at their discretion for the purpose of punishing him. Other personal injuries are not exceptions to the rule in the last section.

53. In every case of an injury, the condition of the defendant is to be preferred; that is, the facts must be proved by the plaintiff. Where the right or the wrong are equal, the condition of the defendant or the party in possession of the thing in dispute, is to be preferred.

54. The enumeration of particular injuries, except those to reputation in some of the preceding sections, shall not be construed to exclude from the class of injuries, any particular case not enumerated, which amounts to an injury agreeably to the principles of the first six sections, or the tenth section. The first six sections and the tenth section, contain general principles; which the others are designed to explain, apply, or restrain. But they are only to be restrained by express words, not by mere omissions.

55. All the provisions of this title are to be considered as annexed to, incorporated in, and controlling all the provisions of the second title, except those contained in the twenty-third chapter.

## TITLE II.

### OF REMEDIES.

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#### CHAPTER I.

##### OF ACTIONS.

1. An action is a mode of proceeding to obtain redress of an injury by means of a court of justice.

2. The party who seeks redress in an action, is called the plaintiff, the party against whom the action is brought is called the defendant.

3. Actions are divided into three general classes,—where the injury for which redress is sought is a breach of contract, the action is said to be an action growing out of contract; where it is an injury of any other description, the action is said to grow out of a wrong. The third class, consists of actions growing out of judgments in former actions.

4. Actions growing out of contracts, are subdivided into those in which a specific performance of the contract is sought,—and those which are intended to recover damages for the non-performance of the contract.

5. There are three actions growing out of contract, in which the specific performance of a contract is sought,—debt,—specific performance of contracts, other than for the payment of money,—and injunction.

6. An action of debt is an action to enforce the payment of a sum of money, which the defendant has contracted to pay to the plaintiff.

7. An action for the specific performance of a contract, other than for the payment of money, is an action in which it is sought, to compel a defendant to do any act other than the payment of money, in pursuance of a contract into which he has entered. It may be briefly called an action of specific performance.

8. An action of injunction, is an action in which the plaintiff seeks to compel the defendant, to permit matters to remain in the present

state, either in pursuance of a contract, or because of a right growing out of the general principles of law. It is classed with actions founded on contract as a matter of convenience, although it is capable of being applied in cases, where the wrong is not, precisely, a breach of any contract.

9. An action to recover damages for the breach of a contract, is an action in which the plaintiff seeks to obtain from the defendant a sum of money, as damages or compensation for the injury he has sustained by reason of the defendant not performing some contract, into which he, or some person under whom he claims, or whom he represents, had entered. It may be briefly called an action of damages.

10. Whenever a person is bound under a penalty, that himself or any other person, shall do or omit any act, and the obligation is violated, or whenever any person is bound in any sum of money, the obligation to be released or void, on the omission or doing of any act by himself or any other person, in case of a breach of the contract or condition, an action of contract shall be the proper remedy. In such action the plaintiff may recover the amount of the damages sustained by him in consequence of the act or omission complained of, and no more, even although the penalty or sum in which the party is bound, may exceed such amount of damages. Against a surety, or the principal party, if sued with the surety, the plaintiff can never recover more than the penalty or sum in which such surety was bound: but he may have a separate action against the principal, either of contract or damages, according to the circumstances, and recover the excess of his damages beyond the penalty.

11. There are three actions growing out of wrongs,—replevin,—ejectment,—and the action to recover damages for a wrong.

12. Replevin is an action to recover the possession of movable property, wrongfully withheld by the defendant from the plaintiff.

13. Ejectment is an action to recover possession of real or immovable property, wrongfully withheld by the defendant from the plaintiff. A widow may recover her dower in ejectment.

14. The action to recover damages for a wrong, is an action in which the plaintiff seeks to obtain from the defendant, a sum of money, as damages or compensation for the injury he has sustained, by reason of some act of the defendant. It may be briefly called an action of damages. It is the action which lies for every injury, for which there is no other remedy.



15. Besides the actions growing out of contracts and wrongs, there is another action of a peculiar nature, growing out of a judgment in some former action. It is called an action of enforcement.

16. Enforcement is an action, in which the plaintiff seeks to have enforced, some judgment of the court formerly rendered, but which, from lapse of time, or change of parties, cannot be enforced by immediate execution.

17. Where the cause of action grows out of a contract, and the plaintiff intends to proceed against several defendants upon the same contract, he must sue them all in one action, unless one or more of them, live out of the jurisdiction of the court. He is not obliged to join the representatives of deceased persons with living original parties. He may sue each of such representatives separately.

18. No action of ejectment can be commenced more than twenty years after the cause of action has accrued; nor any action of enforcement more than twelve years after the rendition of the judgment on which it is founded. Actions for the violation of written contracts, must be commenced within seven years; actions for personal injuries within one year; and all other actions within three years after the cause of action accrued, and not after. This section is to furnish no defence, unless expressly relied on in the defendant's answer. If either of the parties be absent from the colony during any part of the time, or be under age, or insane during any part of the time, such part of the time shall not be reckoned, unless in the case of personal injuries committed without the limits of the colony.

19. For every personal injury done to a married woman, or a woman who afterwards marries, her husband shall be entitled to an action, which shall survive to her if he die before it be brought to a conclusion, and she may be made a party in his stead. For every personal injury done by a married woman, or a woman who afterwards marries, an action shall lie against her husband, which may be revived against her, and she be made a party in his stead, if he die before it be brought to a conclusion. In either case, if the husband die before the action be brought, the action may be brought by or against the surviving wife.

20. In every form of action, where the right or the wrong is equal, the condition of the defendant or person in possession of the thing in dispute, is to be preferred.

## CHAPTER II.

OF THE MODE OF COMMENCING ACTIONS AND BRINGING  
DEFENDANTS INTO COURT.

1. Actions are commenced, and defendants brought before the courts, by means of writs.

2. A writ is a written or printed paper, authenticated by the seal of the court, and signature of the clerk, directed to the sheriff or other person, commanding him to do, or abstain from doing, some act.

3. All actions, except injunction and replevin, shall ordinarily be commenced by a writ of summons, directed to the sheriff, requiring him to summon the defendant or defendants to appear at a day appointed, to answer the complaint of the plaintiff or plaintiffs, without specifying such complaint. The writ of summons shall also contain a clause requiring the sheriff to have the writ before the court, at the day appointed for the appearance of the defendant or defendants. It shall only be issued on the written direction of the party or his agent.

4. It shall be the duty of the sheriff to produce to the court the writ of summons, with his return endorsed thereon, either that he has summoned the person or persons directed in the writ of summons to be summoned, or that they cannot be found, as the fact may be. There may be different returns as to different persons named in the same writ.

5. If the sheriff return that the defendant or defendants, or any of them, cannot be found, a writ of re-summons may be issued as to such defendant or defendants.

6. A writ of re-summons differs from a writ of summons only by the insertion therein, after the word 'summon' of the words 'as you were before commanded.' It shall be returned as a writ of summons.

7. If the defendant, having been returned summoned on a writ of summons, shall not appear within four days after the time therein appointed for his appearance, or if, on the return of a writ of re-summons, the defendant shall not appear, within four days after the time therein appointed for his appearance, whatever the return may have been, it shall be the right of the plaintiff or plaintiffs, having first filed his or their complaint, unless the complaint be in ejectment, to move for a writ of attachment, which shall be granted as hereinafter provided.

8. A writ of attachment is a writ directed to the sheriff, commanding him to attach the lands, goods, chattels, and credits of the defendant or defendants, to the value of a sum to be expressed in the attachment, and to have the writ before the court at a certain day.

9. The sum specified in any writ of attachment shall not exceed the sum of one hundred dollars, unless in the cases hereinafter otherwise provided for.

10. The plaintiff having filed his complaint, and being entitled to move for an attachment under the provisions of the seventh section of this chapter, may—unless the complaint be in an action of damages, for an injury to the person, or reputation of the plaintiff or his wife, or for such other injury as cannot be conveniently estimated in money—make an affidavit or affirmation of the sum due to him, or of the injury he has received, and of the damages he believes he has sustained; and in that case, the writ of attachment shall direct the sheriff to attach property to an amount equal to the amount of the debt or damages so sworn to, and half as much more, so as to answer the interest and costs, as well as the debt or damages.

11. If the complaint be in debt, and the plaintiff shall exhibit to the court evidence, in writing, that any specific property has been mortgaged or pledged as security for the debt, then the writ of attachment shall command the sheriff to attach the specified property so mortgaged or pledged, without regard to the value thereof. And such writ may issue without any previous writ of summons having been issued.

12. In all cases of actions of debt or contract, wherein a specific performance is not sought to be compelled, and in all actions of damages, except those that are excepted in the tenth section of this chapter, the plaintiff may commence by filing his complaint, and the affidavit required in the said tenth section, with an addition to such affidavit, that he fears that the defendant or defendants cannot be found to be summoned, or will not appear if summoned, and shall thereupon be entitled to an attachment.

13. In an action of enforcement, no affidavit or any previous writ shall be necessary to obtain an attachment, except in the case provided for in the fifteenth section. If the original judgment was in injunction or ejectment, the costs and as much more shall be regarded as the sum to be specified in the attachment.

14. All writs of attachment issued under the tenth, eleventh, twelfth, or thirteenth sections of this chapter, shall contain a clause requiring the sheriff to summon the defendant or defendants, as in a writ of summons.

15. In an action of enforcement, if the original judgment were in specific performance, the same rule as to the sum to be mentioned in the attachment, shall prevail, as in the case of a judgment in injunction or in ejectment, unless there be an affidavit of non-performance of the judgment, and of the extent of damages sustained by such non-performance.

16. It shall be the duty of the sheriff, immediately upon the receipt of any writ of attachment, to attach, seize, and take into his hands and possession, if necessary, all the personal or movable property of the defendant or defendants named in the writ of attachment, which he shall find in his or her possession, or not in the possession of any other person; and also to attach, seize, or take possession, if necessary, of the right, title, and interest of the said defendant or defendants, in all fixed and immovable property. But if the writ of attachment refer to particular property, he is not to meddle with any other.

17. The necessity referred to in the last section, is the necessity of making up the value of the sum called for in the writ of attachment.

18. In order to ascertain the quantity of property which it may be necessary to attach or seize, it shall be the duty of the sheriff to cause all property so attached or seized to be appraised and valued by two disinterested persons, upon their solemn affirmation to value the same to the best of their skill and ability.

19. It shall also be the duty of the sheriff to cause a list or schedule of all property so as aforesaid seized or taken, and of the appraisement and valuation thereof, to be made out and annexed to the writ of attachment, and to return the said writ 'attached as per schedule.'

20. If, from the peculiar nature of any personal property belonging to the defendant or defendants, it shall be incapable of being taken into the hands and possession of the sheriff, he may nevertheless include it in his schedule, and shall give notice to all persons whose interest may require such notice, that he has so done. Courts may adopt such rules upon the subject, embraced in this section, as may from time to time appear to them proper, and may regulate such notice in the manner they may deem most just.

21. If there is not sufficient property, of the defendant or defendants, liable to be included in a schedule, to produce the amount required by the writ of attachment, or if the plaintiff shall so direct, the sheriff may lay the attachment in the hands of any person or

persons who may be indebted to the defendant or defendants, or any of them, or who may have the care, custody, or possession, of any property of such defendant or defendants, or any of them, by warning such person or persons that the property of such defendant or defendants is attached in his or their hands to such an amount, and summoning such person or persons to appear at court on the day appointed for the return of the writ of attachment, to shew cause why the same should not be condemned in his or their hands, towards the payment of the debt or damages sought to be recovered. Provided, that the person or persons so warned and summoned, may deliver up to the sheriff all the property of which he or they has or have the care, custody, or possession, as aforesaid; whereupon the sheriff shall proceed as if he had found the same out of the possession of any person.

22. If the sheriff has proceeded to lay the attachment in the hands of any person or persons, he shall return the writ 'attached in the hands of ———.' The person in whose hands the attachment is laid, shall be called 'the garnishee.' A plaintiff may himself be made a garnishee.

23. If the sheriff cannot find any property to attach, or any debtor, or other person in possession of property, to warn as garnishee, he shall return on the back of the writ, 'that the defendant has, or defendants have, nothing which he can attach.'

24. Upon the return of any writ of attachment, the defendant or defendants may appear and give bail; in which case the attachment shall be dissolved, except in the case provided for in the next section; or the defendant or garnishee, or both, may appear without bail, in which case judgment shall be suspended until the usual steps shall have been taken to bring the case to trial—the attachment standing as a security. But if neither defendant nor garnishee appear, there shall be a judgment by default against both, or against the defendant, if there is no garnishee. But there shall be no judgment by default upon an attachment which has not been preceded by a summons, and which has been returned under the twenty-third section.

25. An attachment founded upon a mortgage or pledge, shall not be dissolved, unless the defendant shall make oath that the debt is paid, or that the property taken under the attachment, is not that mortgaged or pledged.

26. When an attachment is dissolved, the property taken under it, and all persons whatever affected by it, shall be put in the same situation as if it never had existed.

27. Upon the return of any writ of attachment, 'attached as per schedule' or 'laid in hands,' if the defendant or garnishee do not appear within four days, the plaintiff may have judgment by default, and an order that the sheriff shall sell the property taken under the attachment, if any, towards the payment of his debt or damages, when ascertained, according to law.

28. If the complaint be filed in an action of damages, for an injury to the person, or reputation of the plaintiff or his wife, or any other injury, which cannot be easily estimated in money, and the plaintiff be not satisfied with a writ of attachment to the amount of one hundred dollars, he may apply to the court, or any judge thereof, and exhibit such evidence of the injury, and of other matters connected with the subject, by his own oath or otherwise, as he may think proper, and the court or judge may direct such sum as may be proper, to be inserted in the writ of attachment; or if the injury be a personal one, may, in the discretion of such court or judge, order the issuing of a writ of arrest, even although the defendant be an infant under twenty-one years of age.

29. In any other case the plaintiff being in a condition to apply for a writ of attachment, and having made oath or affirmation, that he fears he shall not be able, by a writ of attachment, to obtain security for his debt or damages, may apply to the court or any judge thereof, for a writ of arrest, which may be granted him in the discretion of such court or judge; but a writ of arrest against a defendant, as such, shall never issue as a matter of course, nor against an infant under twenty-one years of age, married woman, idiot, or insane person, unless under some special provision of law.

30. A writ of arrest, is a writ whereby the sheriff is commanded to arrest the body or bodies of the defendant or defendants, and in most cases to bring it or them before some judge or other person authorized to receive bail, to give security, to answer the complaint of the plaintiff in a sum to be named in the said writ, and to have the said writ before the court at a day to be named therein.

31. The sum to be named in the writ of arrest, for which security shall be taken, is to be always in the discretion of the court or judge, awarding such writ.

32. Every writ of arrest against a defendant, in any action other than injunction, shall be accompanied by a copy of the plaintiff's complaint, attested by the clerk of the court, which it shall be the duty of the sheriff to deliver to the first person arrested by virtue of such writ.

33. Every writ of arrest against a defendant, in any action other than injunction, shall be accompanied by a writ of attachment; and if the defendant will point out to the sheriff sufficient property, liable to be attached as per schedule, to cover the sum mentioned in the writ of attachment, which shall be the same mentioned in the writ of arrest, the sheriff shall not execute the writ of arrest; but, as a reason for not so doing, shall return, upon the writ of arrest, that he has executed the accompanying writ of attachment. The two writs shall be considered as commencing but one action.

34. It shall be the duty of the sheriff immediately on the receipt of a writ of arrest, to arrest every person whom he is thereby commanded to arrest, and to carry him before some person authorized to take bail, unless in the case provided for in the thirty-third section of this chapter, and also, if required by the person before whom he is so carried, to conduct him to prison, there to be detained until discharged by due course of law, and to make return to the court of what he has done in the matter. Writs of arrest may be continually renewed until the defendant or defendants is or are arrested.

35. In an action of specific performance, or of enforcement founded upon a judgment in specific performance, the plaintiff being entitled to an attachment after a return of 'summoned,' or after two returns of 'not found,' or in an action of enforcement without such return, may exhibit to the court or one of the judges thereof, such evidence of the contract and its circumstances, as he may think proper, by his own affidavit or otherwise, and the court or judge may thereupon order a writ of attachment to issue directing the sheriff to attach any specific property to which it may appear to such court or judge that the plaintiff is entitled under the contract, specific performance of which is sought to be compelled, and the property taken under such attachment, shall, whenever a judgment by default or otherwise is rendered in the cause, in favour of the plaintiff, be delivered to the plaintiff.

36. In ejectment there shall be no writ of attachment or of arrest, nor any bail required, but on a return of a writ of summons, the plaintiff, having filed his complaint, if the defendant do not appear, may cause a copy thereof, together with a copy of the writ of re-summons, to be set up on the property claimed, ten days before the return day of the re-summons, and for that purpose may have a writ of re-summons, although the writ of summons may have been returned summoned; and if the defendant do not appear within four

days after the said return day, the plaintiff shall be entitled to a judgment by default.

37. An action of injunction must be commenced by a writ of injunction, to obtain which, the plaintiff must file his complaint verified by his own oath, and by such other evidence as the court or judge may think proper. The court or judge may also require the plaintiff to give sufficient security to indemnify the defendant from any injury he may sustain, by means of the writ of injunction; but this is a matter in the discretion of the court or judge, as is also the issuing the injunction and the contents thereof.

38. A writ of injunction is a writ directed to the party, commanding him to abstain from doing some act, which it is alleged he is about to do, and also to appear before the court at a day to be therein appointed, to shew cause why the injunction shall be dissolved. Every writ of injunction shall be issued in duplicate.

39. A writ of injunction may be served by the sheriff, or any other person except the plaintiff, by leaving it, or a copy or duplicate thereof, with the person to whom it is directed. The original, or its duplicate writ, must be returned to court on or before the day appointed for the defendant's appearance, accompanied by a solemn affirmation of the service.

40. If the defendant disobeys the injunction, the court, on being satisfied of the facts by affidavit, may issue a writ of arrest against him, although privileged under the twenty-ninth section, and punish him by fine or imprisonment, or otherwise, in their discretion. Such writ shall be returnable before the court or a judge thereof only, and shall contain no clause respecting bail or security.

41. An injunction shall not be dissolved, unless the defendant appears and files a sufficient answer to the complaint, verified by oath; it shall not be dissolved merely because he denies knowledge of the facts alleged in the complaint, and puts the plaintiff upon the proof thereof.

42. Replevin must be commenced by issuing a writ of replevin, to obtain which, the plaintiff must give sufficient security, in the discretion of the clerk of the court, that he or his representatives will return the goods about to be replevied, and pay the costs, if any court having jurisdiction in the cause shall so adjudge, and indemnify the defendant, from any injury he may sustain, by means of the writ of replevin.

43. A writ of replevin is a writ directed to the sheriff, commanding him to replevy and deliver to the plaintiff, the goods there-



in specified, to summon the defendant to appear before the court on a day therein appointed to answer the complaint of the plaintiff, and to have the writ before the court on the said day.

44. It shall be the duty of the sheriff literally to execute the commands contained in the writ of replevin, and to return his doings to the court.

45. If the sheriff cannot find the goods mentioned in the writ of replevin, the plaintiff may either issue another replevin or a writ of re-summons on the former writ, turning the action thereby into an action of damages, in which last case his sureties shall be released. He may also have an attachment for a sum equal to double the value of the goods as ascertained by his own oath, provided he files an affidavit that he believes they are or have been in the defendant's possession.

46. If the sheriff replevy and deliver the goods, and return those facts to the court, and the defendant do not appear within four days of the day appointed for his appearance, the plaintiff shall be entitled to a judgment by default, which shall operate as a discharge to his sureties, and shall entitle him to the goods.

47. No judgment entered in pursuance of any direction contained in this chapter, shall be stricken out after the term at which it is entered, nor during that term, but on payment of costs and compliance with such other conditions as the court may impose; provided that the court may inquire into the truth of any return, and if they shall be satisfied that any return was false, they may order the officer making such return, to pay the costs, and may make such order as to the defendant's appearance, as may to them seem just.

48. A term is the space of time comprehended between the legal first day of any meeting of a court, and the legal first day of the next meeting of the same court.

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### CHAPTER III.

#### OF BAIL.

1. Bail is the security which is given by a defendant for his complying with the judgment of the court.

2. Bail can only be had in cases where the plaintiff is entitled to a writ of attachment or arrest, and only to the amount of the sum mentioned in such writ.

3. The stipulation into which bail shall enter shall be that the

defendant shall perform the judgment of the court, or render his body to the sheriff, under penalty of such a sum.

4. Whenever a defendant is brought before a court, judge, or commissioner of bail, on a writ of arrest, and the court, judge or commissioner is of opinion that the plaintiff is entitled to demand bail, it shall be lawful for such court, judge or commissioner to commit such defendant to prison, if such court, judge or commissioner shall, in the exercise of a sound discretion, deem it proper, until he is discharged by due course of law. Such discharge may be by order of the plaintiff, or some proper authority before whom the defendant has given bail, or before whom he has assigned all his property for the general benefit of his creditors, agreeably to the directions of the law.

5. The remedy against bail shall be an action of contract, which, however, cannot be commenced until after the return of a writ of execution, which has proved wholly or in part ineffectual. The bail shall be discharged by the death of the principal, prior to such return.

6. The same remedy is to be applied in all cases of security mentioned in the second chapter; but the previous return of a writ of execution shall not be necessary, except in the case of bail, nor shall the death of the principal be a discharge in any other case.

7. The measure of damages, in the case of bail, is the amount of the judgment rendered by the court, in the action in which bail was given.

8. Every judge of a court shall have power to take bail, in all actions pending in his court, and every court shall have power to appoint, by standing rules, commissioners of bail, who shall have the same power. The court may, by standing rules, establish an appeal from a commissioner to a judge, in cases in which they may deem it proper.

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## CHAPTER IV.

### OF THE COMPLAINT.

1. Whenever the defendant appears, it shall be the duty of the plaintiff to file his complaint, unless he has done so before. If the plaintiff has not filed his complaint within ten days after the appearance of the defendant, the defendant may demand to be discharged.

2. The appearance of the defendant is to be accounted as made, when it is entered on the records of the court. This cannot be

done until bail has been given, when the plaintiff is entitled to bail, unless an attachment hath been laid on the defendant's property, in which case he may appear without giving bail, the attached property standing as a security in lieu of bail.

3. Every complaint must contain a distinct and intelligible statement, in writing, of a sufficient cause of action within the scope of the form of action chosen, otherwise the action may be dismissed.

4. Every complaint must commence in this manner, 'A. B. complains that,' and conclude 'all which the said plaintiff is ready to prove.' No other form is necessary. In no case shall it be necessary to state any fiction of law, or any precise amount of damages, or any matter which it is not necessary to prove.

5. If the plaintiff has really several causes of action, against the same defendant, suited to the same form of action, he may include them all in one complaint, separating them from each other by the words 'And the said plaintiff further complains that.'

6. A complaint in an action growing out of contract, must state the contract and the violation thereof; and if the contract be one merely implied by the law, must state the facts from which the law will imply it.

7. A complaint in an action of debt, must state a written obligation or promise to pay, or it must be in the form prescribed in the next section.

8. A complaint in debt may be in this form, to wit: 'A. B. complains that C. D. is indebted to him for sundry matters, properly chargeable in account, as will appear by the account herewith filed, and has neglected to pay said debt—all which the said plaintiff is ready to prove.' Together with a complaint in this form, there must be filed an account stating specifically, distinctly, and intelligibly, the articles with which the plaintiff intends to charge the defendant, so as to give the defendant notice of the facts the plaintiff intends to prove.

9. A complaint in specific performance must state the contract and the refusal of the defendant to perform his part thereof; it should also state that the plaintiff has performed or is ready to perform his part, unless in cases in which by the terms of the contract the part of which specific performance is sought, is to be performed first.

10. The complaint in injunction should state the contract or other facts, entitling the plaintiff to demand that the defendants should not do the act, from doing which it is sought to enjoin him,

and also the belief of the plaintiff that the defendant intends to do such act. The oath of the plaintiff shall be sufficient evidence of such belief.

11. A complaint in contract shall state the contract, the violation thereof, and the fact that the plaintiff has sustained damage by reason of such violation. But it shall not be necessary to specify any amount of damages.

12. A complaint in replevin shall state that the defendant detained certain specified movable property of the plaintiff, enumerating the same.

13. A complaint in ejectment may state that the plaintiff was possessed of the land sought to be recovered, or that any other person was possessed of it, and that the defendant or defendants detain said land; and if possession thereof in the plaintiff be not averred, such complaint shall contain an averment, that the title of the person in whom possession is averred, hath come to the plaintiff. A widow may recover her dower in the same form.

14. A complaint in ejectment may state that the defendant detains the lands of the plaintiff, to which he is entitled, under a grant from the society or other authority, having power according to law, to grant land in the first instance, or from the defendant himself to the plaintiff, or to any other person who may be named in the complaint; and in the last case, the complaint shall contain an averment that the title of such person hath come to the plaintiff. The allegation of possession, is sufficiently proved by proving title, unless some other person is proved to have been in possession, at the time at which it was important to prove possession, in the plaintiff, or the person under whom he claims.

15. A complaint in ejectment may state that a judgment, to be recited in the complaint, was obtained against the defendant, that an execution issued thereon, and that the sheriff or the other proper officer, in pursuance thereof, sold certain lands of the defendants, to the plaintiff, or to any other person, and that the defendant detains the said lands. If the sale by the officer is not alleged to have been made to the plaintiff, the complaint must also state, that the title of the person, to whom the sale was made, has come to the plaintiff.

16. When an action of ejectment is brought against a tenant who holds over, it shall be sufficient for the complaint to state the lease or renting to the defendant, and that his time has expired. If the defendant be not the original tenant, or the plaintiff not the original

landlord, the title of those parties to the action, who are not parties to the lease, shall be deduced in general terms from the lessor or lessee, as the case may require.

17. When an action of ejectment is brought to recover property which has been leased, and the interest of the lessee or his assignee, forfeited by the non-payment of rent, it shall be necessary for the complaint, to state summarily the lease, the clause of re-entry and the arrearage of a year's rent, whereby the interest of the defendant is forfeited, and that notwithstanding such forfeiture, he detains the land. If the action be not between the original parties to the lease, the title of those parties to the action, who are not parties to the lease, shall be deduced in general terms from the lessor or lessee, as the case may require.

18. The complaint in an action of damages shall state the injury complained of, and the fact that the plaintiff hath sustained damages thereby; but it shall not be necessary to specify any amount of damages.

19. A complaint in damages to real property, must either state that the plaintiff at the time of the injury complained of, was possessed thereof, or that he was formerly possessed thereof, and had parted with the possession thereof, to be reinstated therein at some period, or upon the happening of some contingency, or it must aver the same facts as to some other person, and deduce title like a complaint in ejectment. But no person can maintain an action of damages, for an injury to real property done before his title to the same accrued. The allegation of possession shall be sufficiently proved by shewing title, unless some other person is proved to have been in possession at the time, at which it was important to prove possession in the plaintiff, or those under whom he claims.

20. A complaint in damages for an injury to personal property, must state that the plaintiff was the proprietor of the goods, which were the subject of the injury, or that he was possessed of them, and shall also state such injury, which may consist in taking, using, damaging, destroying, selling or detaining such goods, or in any act which may diminish the value thereof; or render the possession of them insecure.

21. A complaint in damages, for a personal injury to the person or reputation of the plaintiff, need only state the injury. If the injury complained of, be a malicious or improper suit, prosecution, or other legal proceeding, the complaint must shew that such suit, prosecution, or proceeding, is at an end, and has terminated in favour of the present plaintiff.

22. A complaint in an action of damages, for an injury to the domestic relations of the plaintiff, must state the relation upon which it is intended to rely, the injury, and also that the plaintiff sustained damage thereby.

23. The plaintiff may once amend his complaint or withdraw it, and file a new one at any time before the case is ready for trial; but he must pay the whole costs of the action, incurred by both parties, up to the time of such amendment; and if he change his form of action, he shall lose the benefit of bail, if any has been given.

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## CHAPTER V.

### OF THE ANSWER.

1. The defendant may either deny the truth of the facts stated in the complaint, or he may deny that they are sufficient in law to maintain an action, or he may do both, and in so doing, he is not confined to any form.

2. If the defendant deny both the facts and the law, the question of law shall first be disposed of.

3. The defendant may file an answer to the complaint, setting forth new facts to excuse or justify his conduct; every such answer must be in writing, and must contain a distinct, intelligible, and sufficient answer to the complaint, or to such parts thereof as it professes to answer, or judgment shall be given for the plaintiff.

4. Every answer which is not a mere denial of the truth of the facts alleged in the complaint, or of the law assumed in the same or of both, must commence 'The defendant denies the right of the plaintiff to recover, because,' and conclude 'And this the defendant is ready to prove.' No other form is necessary.

5. Every answer must be filed within twenty days after the appearance of the defendant, provided that the complaint shall have been filed before the expiration of ten days from the said appearance; otherwise, it shall be filed within ten days after the defendant shall have received notice of filing the complaint.

6. If no answer is filed as provided in the last section, the defendant shall be understood to deny the truth of the facts, and to rest on that defence only. Every answer may be once amended or withdrawn, and a new one filed, or an additional answer filed; but this must be done so as to produce no delay in the trial of the cause, and

the defendant must pay all the costs of the action incurred by both parties, previous to such amendment.

7. If the defendant have really several answers to the complaint, he may avail himself of them all, separating them by commencing each new answer with the words 'And also because.'

8. No general denial, whether expressed or implied, shall ever be construed, in an answer or reply, to amount to an affirmation of any fact, such as payment, performance of a contract, inability of a defendant to contract, illegality of consideration, permission of the plaintiff, lapse of time, or other affirmative matter, of the intention to prove which, the other party ought in fairness to have notice. The fundamental principle upon which all complaints, answers, or replies shall be constructed, shall be that of giving notice to the other party of all new facts which it is intended to prove, whether they are consistent with the facts already stated to the court, or, being inconsistent with the present existence of such facts, admit or imply their former existence, or shew that, existing, they can have no legal effect.

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## CHAPTER VI.

### OF THE REPLY AND SUBSEQUENT PROCEEDINGS.

1. The plaintiff must reply to the defendant's answer, within ten days after he has notice that it is filed, or he shall be obliged to rest his case on the denial of the truth of the answer only, to be construed agreeably to the principles of the eighth section of the last chapter.

2. The plaintiff may, in his reply, either deny the truth of the answer, or that it constitutes a sufficient answer to his complaint, or both. But if he denies both, the question of law must first be disposed of. Such denial is to be construed agreeably to the principles of the eighth section of the last chapter.

3. The plaintiff may reply new facts, if he thinks proper to do so, subject to the rules laid down for answers. Such a reply must commence, 'The plaintiff denies that the answer of the defendant is sufficient to prevent his recovery,' and conclude, 'And this the plaintiff is ready to prove.' No other form is necessary.

4. If the defendant choose to give any other answer than the denial of fact or law to the reply, he may file a second answer, but this will be seldom necessary or proper; in like manner, the plaintiff may

file a second reply, and so on, until one of the parties rest his case, on a denial of the facts stated, or law assumed, by the other party, or of both; such subsequent answers and replies are subject to all the principles, rules, and forms above laid down, such alterations being made in the forms as circumstances may require.

5. Every answer and reply must contain a distinct, intelligible, and sufficient answer, in writing, to the complaint, answer, or reply to which it purports to be an answer or reply, or to such parts thereof as it professes to answer, and must not depart from the ground taken by the former answers or replies to the same party, or judgment shall be given for the other party.

6. If a party have really two or more sufficient answers or replies to the answer or reply of his adversary, he may avail himself of them all, separating them by commencing each new answer or reply after the first, with the words, 'And also because.'

7. Amendments may be made in replies and answers, subsequent to the first, upon the terms on which they may be made in the first answer, and replies and subsequent answers may be withdrawn, and others substituted upon similar terms.

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## CHAPTER VII.

### OF TRIAL.

1. The trial of all questions of mere law shall be by the court.

2. The trial of all questions of mere fact shall be by a jury, if required by either party, and the value of the matter in dispute exceed twenty dollars, unless in cases where the court are expressly authorized or directed by law to inquire into any matter of fact, not going to the final decision of the case.

3. The trial of all mixed questions of law and fact shall be by a jury, with the assistance, and under the direction, of the court; unless where the court could try the question, if one of mere fact.

4. A jury shall consist of twelve persons, who shall solemnly affirm, immediately before the trial, that they will well and truly try the issues joined between the parties, and a true verdict give, according to the evidence.

5. The opinion of the court shall in all cases be the only evidence to the jury of the law of the land.

6. The amount of debt or damages shall, unless otherwise directed



by law, be in all cases ascertained by a jury. The jury who try an action of replevin, when the goods are in possession of the plaintiff, shall, if they find a verdict for the defendant, ascertain the value of the goods.

7. The court shall try all questions and ascertain the amount of debt and damages in all cases in which a jury is not required.

8. If in an action of enforcement, or in any other case, in which a judgment is stated in a complaint, the defendant deny the facts stated in the complaint, the court shall try the question, whether there is such a judgment or not, and their opinion on that subject, shall be conclusive upon the jury, if there is one.

9. It is the right and the duty of the court, to expound to the jury all written evidence, produced in the course of the trial, but depositions and affidavits, although actually reduced to writing, are not to be considered as written evidence within the meaning of this section.

10. It is the right of the court, to decide on the admissibility of evidence, but when it is admitted, it is the right of the jury to decide upon its credibility and effect.

11. Consequently the court have no right to instruct the jury, that there is no evidence of any particular fact, if any evidence not written has been given in the cause.

12. It is the duty of the court when applied to by either party or by the jury, to instruct the jury upon any point of law which is important to the decision of the cause; and the court may so far decide upon the effect of unwritten evidence, as may be necessary to enable them to ascertain whether a point, upon which instruction is asked, is important to the decision of the cause.

13. The court shall not instruct the jury upon any point of law, which has not a bearing upon the merits of the cause.

14. On the trial of an action for a malicious suit, prosecution or proceeding, it shall be the right of the jury, to determine whether reasonable cause for such suit, prosecution, or proceeding existed or not, which they shall do by taking into consideration all the facts and circumstances of the case. The court shall only instruct them, as to what facts are requisite and proper to furnish a sufficient foundation in law for similar suits, prosecutions, or proceedings.

15. Either party may require the court to reduce its opinions and instructions to writing, and whenever an appeal is to take place, the whole evidence in the cause, shall be reduced to writing, and with the opinions and instructions, signed by the judges, shall be transmitted to the court, before which the appeal is to be heard.

16. The court may set aside the verdict or decision of the jury, and order a new trial, whenever it shall be proved that the jury or any of them have received a bribe, or have conversed, otherwise than openly in the presence of the court, with any party to the suit, or agent of such party, on the subject of the trial, after being affirmed; or if any juryman was related to either of the parties, or to the wife of either of the parties, as father, son or brother, or had himself any pecuniary interest in the cause, or if the verdict shall be manifestly against the evidence, the law, or the legal instructions of the court, or if the debt or damages found by the jury, be greatly too much or too little, when compared with the evidence in the cause.

17. The court in awarding a new trial, may impose such terms upon the party in whose favour they award it, as to them shall seem just.

18. Every motion for a new trial, must be made within four days after the verdict, or if on the ground of the verdict being against evidence, law, or the instructions of the court, or of a mistake in the amount of damages, within two days. Within one day after such a motion is made, it shall be the duty of the court to appoint a time for hearing it, which shall be within ten days after the verdict, if the ground of the motion shall be such as, by the provisions of this section, would render it necessary to make the motion within two days after the verdict.

19. When a verdict is set aside, it shall be the duty of the court to appoint as early a day, as conveniently may be, for a new trial.

20. Every question of law or fact, shall be disposed of at the term at which it is raised, unless the court are prevented from disposing thereof by want of time, or are satisfied by affidavit or other sufficient evidence, that the ends of justice require a postponement, and that the necessity does not grow out of the misconduct or negligence of the party applying for the postponement.

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## CHAPTER VIII.

### OF COURTS.

1. Every court shall consist of one or more judges, and shall have a clerk, and, if it has been in existence ten years, a seal.

2. Every act of a court unless otherwise directed by law or rule

of court, shall be authenticated by the signature of the clerk, and the seal of the court, if there is one.

3. Whenever a court has not a seal and is not bound by law to have one, its writs and other acts may be authenticated by the signature of the clerk alone. Such clerk, in that case, except in cases of writs addressed to a public officer, shall annex to each document a certificate that the court has no seal, and is not bound by law to have one, which certificate must be signed by some judge of the court.

4. It shall be the duty of the clerk of every court to keep a docket, or list of the cases pending in the court; which shall exhibit all the proceedings taking place in the cause. To take charge of all records and papers, and on payment of his fees, give copies of them whenever required, to sign all writs and other acts of the court, and to do such other duties as may be required of him by law, or rule of court.

5. It shall be the duty of every court, at each term or session, to dispose of all questions of mere law depending before them, and then to cause a jury to be provided to try questions of fact and mixed questions.

6. Every court shall have power to cause to be arrested and brought before them by writ of arrest, or otherwise, any person who may interrupt or disturb its proceedings, resist the execution of a writ or writs issued by its authority, refuse or neglect to obey its lawful summons, or that of the sheriff to attend upon its sittings, or refuse or neglect to perform the duties, for the performance of which any such person may have been summoned, or who being summoned and having appeared, shall depart from the court without leave. But this section shall not be construed to extend to defendants in actions, who may disobey a summons, in cases in which a writ of arrest is not expressly authorized against them in the second chapter.

7. When any person is brought before the court under the last section, it shall be lawful for the court to punish him or her by fine and imprisonment, setting in the stocks or otherwise in the discretion of such court.

## CHAPTER IX.

## OF JURIES.

1. Every jury shall be composed of twelve jurymen, the consent of three-fourths of whom, shall be necessary to a verdict.

2. Every jury shall, on the demand of either party, be chosen in the following manner. Twenty four names, of persons qualified to be jurors in the case, shall be put into a box, and twenty of them drawn by lot; each party may strike four from the list, and the remaining twelve shall try the cause. Should the parties strike the same persons, the court shall reduce the number to twelve.

3. The foreman of every jury, shall be appointed by the court.

4. The foreman of every jury, shall deliver their verdict; but any party to the action, may demand the opinion of each jurymen, in order that he may ascertain if the verdict has the assent of three-fourths.

5. Every jurymen, immediately before the commencement of the trial, shall make a solemn promise or affirmation, to the effect prescribed in the fourth section of the seventh chapter; or else that he will well and truly inquire of the debt due to, or the damages sustained by the plaintiff. The latter form applies to inquiries after judgment by default or otherwise.

6. No person can be a jurymen in any case in which he has, directly or indirectly, a pecuniary interest, or in which any ancestor, descendant, brother or sister of his or his wife, or the husband or wife of any such ancestor, descendant, brother or sister, has, directly or indirectly, such interest, or in which any uncle, aunt, nephew, niece, or first cousin of himself or his wife is a party, or wife to a party, or in which he has acted as agent or assistant, in any way for either party, or on the merits of which he has expressed any opinion, or in which he has previously acted as a jurymen or arbitrator. Either party may object to the name of any person, disqualified from serving by this section, being put into the box; and the facts, if denied, may be proved by the oath of the jurymen proposed, or by any other sufficient evidence. The court may also exclude a person from serving on a particular jury, for any reason which in the opinion of triors affects his impartiality, or on his own application may for similar reasons excuse him. But in cases of exclusion, except for the specific causes above mentioned, the court shall, if required so to do by either party, cause three persons

qualified as jurymen in the cause to be chosen as triors, in the manner following : that is to say, the court shall nominate nine persons, whose names shall be put in the ballot box and seven of them drawn and entered on a list ; each party shall strike two from the list, and the remaining three shall try the impartiality of the jurymen without appeal. Should the same persons be struck by both parties, the number shall be reduced to three by the court. But if a juror is admitted to try a cause without objection or after a trial by the court, or by triors, the verdict shall not be set aside on account of any disqualification in him to serve on the jury, not mentioned in the fifteenth section of the seventh chapter.

7. If, after the list of a jury is made out, it shall appear that the whole twelve are not present, or one or more of them shall prove not to be lawful jurors, the court may nominate five persons qualified as jurors in the cause, for each jurymen wanting ; the names of such persons shall be put in the ballot box, and three for each jurymen wanted drawn, and written on a list, from which each party may strike one-third of the names thereon, and the remaining third shall be the jurymen. The court may nominate persons whose names have been before in the box and not drawn ; but not a person whose name has been stricken from the list by either party in the same cause.

8. In all cases where a party refuses or neglects to strike a name or names from any list, the court may do it for him.

9. Every jurymen must be twenty-five years old, of good moral character, and able to read and write.

10. Every jury must be kept together, from the time at which they are affirmed, until they render a verdict, without communicating with any person, unless the court dispense with any part of this section. A jury may, notwithstanding, have food, water, light, and other necessities.

11. If the court are satisfied that there is no prospect of three-fourths agreeing, they may be discharged and a new trial awarded.

12. The jury may always find the facts specially, and refer the law to the court. If they disagree upon the amount of debt or damages, they may report to the court the opinion of each jurymen, and the court may ascertain the amount.

13. The sheriff shall cause twenty-four qualified jurymen to attend at each term of every court, having original jurisdiction, to be summoned as equally as may be from the several townships within his jurisdiction, and in rotation in each township. If from any cause

any particular jurymen shall be disqualified from serving in a particular case, or shall be absent, the place of his name may be supplied in the ballot box by that of any person qualified to serve as jurymen in the case, without reference to township or rotation. The persons whose names are substituted for those of others, shall be called additional jurymen, and shall be summoned by the sheriff before their names are put into the box. Their service in a particular case shall not be accounted instead of their service in rotation.

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## CHAPTER X.

### OF THE GENERAL RULES OF EVIDENCE.

1. It shall be the duty of every party alleging the existence of any fact to prove it. The burden of proof rests on the party who maintains the affirmative, except in special cases.

2. Where a party charges another with a culpable omission or breach of duty, he shall be bound to prove it, although it involve a negative. Every man shall be presumed to be innocent until the contrary is shewn.

3. Where the facts lie peculiarly within the knowledge of one party, he shall be held to prove the negative.

4. When the fact alleged is the life of any person, if he be shewn ever to have existed, the party denying his continuing existence must shew his death. But death shall be presumed from an absence of seven years, during which no account can be given of the absentee.

5. The legitimacy of every person is presumed.

6. Marriage is presumed, whenever the parties have lived together as husband and wife.

7. It is sufficient if the allegations of a party are substantially proved.

8. The best evidence which the case admits of, must always be produced; that is, no evidence is sufficient which supposes the existence of better evidence.

9. A copy is not evidence, unless the original is proved to be lost, or to be in the possession of the opposite party, who has received notice to produce it, or unless it be a copy of some record or other public document.

10. Hearsay is not evidence, except in particular cases.

11. Hearsay from deceased persons of ancient facts, of which they, from their situations, were likely to have knowledge, such as marriages, births, deaths, and pedigrees, may be received as evidence; but it is evidence of a low grade.

12. General reputation is evidence of general character, of marriage, of legitimacy, of death, of a man's having filled or filling a public office in which he has publicly acted.

13. All admissions, made by a party himself, or by any agent of his, acting within the scope of his authority, are evidence.

14. Whatever has been said by a party himself, is evidence against him.

15. Every agent for the conduct of a cause shall have authority for making admissions in that cause.

16. The admission of every other agent, in any matter under his control as agent, shall be evidence.

17. Where several parties have a joint interest, the common interest being proved, the admission of one is the admission of all; but the common interest cannot be proved by the admission of one or more against those not joining in such admission.

18. All admissions must be taken altogether; the whole document or conversation must be given in evidence, and will be evidence of all qualifications, exceptions, and denials contained therein, and of all facts connected with the question stated therein, but evidence may be given of the falsehood of any statements so made. But no document or conversation can be made evidence by the other party proving any other document or conversation not referred to in the document or conversation first proved.

19. No declaration of any party shall be evidence in his favour, except in the case provided for in the tenth section of the fourth chapter, in the cases provided for in the last section, and such others as may be provided for by law.

20. The directions given, or other words spoken by any person or persons, during the transaction of any matters, are not to be regarded as hearsay, or as the declarations of a party; they may be proved as facts.

21. The admissions or declarations of any persons, under whom a party to a cause derives title to any property in dispute in such cause, touching such title or property, made while the interest of such person in such property continued, shall have the same effect as if made by such party.

22. Printed histories shall be evidence of notorious public historical facts.

23. Foreign laws are facts, and must be proved like other facts.

24. If a book, pamphlet, paper, painting, drawing, engraving, etching, or other article, shall be sold in an office or shop where such articles are usually sold, the person for whose account the business of such office or shop is carried on, shall be presumed to have sold such book, pamphlet, paper, painting, drawing, engraving, etching, or other article, until he remove that presumption by contrary proof.

25. Every conversation to which any person was a party, or which was carried on in his presence and hearing, shall be evidence against him, subject to the qualification in the eighteenth section, and to the sound discretion of the jury, in the application of this rule.

26. The possession of any property is evidence of title thereto, until the contrary be shewn. Where the actual possession of property is vacant, it shall be deemed to be in the possession of him who may be the right owner. Yet he may waive this constructive possession, and treat it as if in the possession of any other person who may claim it.

27. All evidence must be relevant to the issue, that is, must have a tendency to establish the truth or falsehood of the allegations and denials of the parties. But in actions for the injuries enumerated in the fifty-ninth section of the first title, it shall be lawful to give evidence of any fact which has a tendency to explain the situation, circumstances, or motives of the parties, in aggravation or mitigation of damages, although not properly relevant to the issue.

28. Evidence is divided into written evidence and oral testimony.

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## CHAPTER XI.

### OF WRITTEN EVIDENCE.

1. Written evidence comprises judgments, verdicts, and other records, deeds, conveyances, wills, bonds, notes, agreements, entries in books, and other similar documents: it does not include depositions taken, to be used in a cause, although reduced to writing.

2. All verdicts, judgments, and other records, and all wills, and other documents, which have been recorded in pursuance of any law, and all documents lawfully deposited in any public office, may



be proved by producing copies of such documents, or the records thereof, authenticated by the signature of the proper officer, and by his seal of office, if he be required by law to have one. The acts of any court required by law to have a seal, must be authenticated under such seal.

3. All other writings must be proved by the production of the originals, unless in the cases provided for in the ninth section of the last chapter, or in other laws.

4. The loss of a document, or its delivery to the other party, may be proved by the oath of a party to the cause, or other interested witness.

5. Handwriting must be proved by the oath of the person, whose handwriting it is alleged to be, or by the oath of other persons acquainted with the handwriting of the party, whose it is alleged to be, either from having seen him write, or corresponded, or transacted business with him; or it may be proved by comparison with undoubted writings of his, proved not to have been written after the dispute arose, or under other suspicious circumstances.

6. By suspicious circumstances are meant any circumstances likely to induce a party to deviate from his usual mode of writing, or to cause it to be changed involuntarily.

7. Acts of the legislature, whether private or public, may be given in evidence from books printed by authority.

8. Foreign laws must in general be proved like other facts, but the printed laws of the United States, and of each of them; published by authority, shall be evidence.

9. The written laws of other countries must be proved by copies attested in the most solemn manner usual in such countries; and proof must be given as to what is the most solemn manner usual in such countries.

10. The judgments of foreign courts and foreign records must be attested in a similar manner.

11. Acts of the legislature and foreign laws shall be admissible evidence against all persons whatever.

12. Verdicts and judgments shall be admissible evidence against all parties thereto, and those claiming under them. They shall not generally be evidence against any other person, except for the purpose of shewing their own existence.

13. Where a verdict or judgment has been rendered against any person in consequence of any act or omission of another person, such verdict or judgment shall be evidence against such other per-

son, in an action by the original defendant to prove its own existence and the amount of damages sustained.

14. A verdict on which no judgment has been given, shall not be evidence.

15. A legal judgment shall be evidence, although not founded upon a verdict.

16. A foreign judgment is evidence in the same manner as a domestic one, its existence having been first proved and also the existence of the law upon which it is founded. But no proof need be given of the law of nations.

17. A judgment of a foreign prize court, is not conclusive evidence of any fact whatever, but it is some evidence.

18. A foreign judgment in a cause in which the defendant did not appear, although a party thereto, shall be no evidence against him. But if any person have appeared for his interest, it shall be evidence, unless he shows that the appearance was without his authority.

19. A verdict or judgment shall be evidence against the party who succeeded in the original action, or those claiming under him, in favour of any person whatever, but it shall not be evidence against the party who failed in the original action, unless it would be also evidence against the party who produced it as evidence.

20. A verdict and judgment in ejectment shall be evidence, but not conclusive evidence of title, but two verdicts in actions between the same parties or those under whom they claim, in favour of the same side, shall be conclusive, unless it is shewn that there has been a verdict and judgment the other way, and even in that case, three similar verdicts and judgments shall be final and conclusive.

21. Other verdicts, and judgments, and sentences, and decrees of courts of competent jurisdiction, are final and conclusive evidence upon the same matter, and are some evidence to prove any other fact which comes in question in another cause, which they may have any tendency to prove.

22. In all cases where the judgment of a court of limited jurisdiction, or a foreign court, is relied on in evidence, the jurisdiction of such courts must be proved to extend to the case in which the judgment was given.

23. A will regularly admitted to proof, by a court having jurisdiction to do so, is evidence against all mankind, unless in a proceeding instituted for the purpose of setting aside such will or the probate thereof.

24. Letters testamentary and of administration, may be read in

evidence in all cases whatever, until they have been regularly revoked.

25. Deeds and other writings, shall be evidence against all parties to them, and shall also be evidence of the transfer of all titles or rights transferred by them, against all mankind.

26. A memorandum made by a deceased disinterested person, in the ordinary course of his business, shall be evidence.

27. If a party desire to give in evidence any document in possession of his adversary, he shall give him reasonable notice to produce it, and the court shall have authority to decide whether the notice is reasonable. But where the proceedings in the cause give notice that one party means to charge another with the possession of an instrument, no other notice shall be necessary.

28. When an instrument is produced under such a notice, the party who requires it, must prove the handwriting of the party subscribing it, unless where the party producing it, claims title under such deed or other instrument.

29. If the party to whom the notice has been given, to produce a deed or other instrument, neglect or refuse to do so, and do not prove that it is not in his power, he shall be taken to admit its authenticity, and its contents may be proved by a copy, or by the testimony of witnesses.

30. If the party to whom notice has been given, to produce a deed or other instrument, shall not produce it, and shall prove that it is lost or destroyed without his fault, its authenticity, if denied, must be proved; but if it has been wilfully destroyed by such party, such destruction shall be an admission of its authenticity. In either case its contents may be proved by a copy, or by the testimony of witnesses.

31. If a party to a cause is fraudulently in possession of an instrument, which does not belong to him, no notice to produce it is necessary, and the contents may be proved without such notice.

32. If a deed or any document, which is wanted to be given in evidence, is not in the power of either party, the party wanting the same may have a writ of summons directed to the person having custody thereof, requiring him to bring such deed or other document with him to court. Which writ may be enforced in the manner herein before provided for in the sixth section of the seventh chapter.

33. Either party may examine the other upon oath, as to whether any instrument or signature is in his handwriting, either before or

at the trial. If any party refuse or neglect to answer an interrogatory to that effect, it shall be considered an admission that it is his handwriting.

34. If any party shall, on such examination, deny that the handwriting is his, and the instrument has the name of a subscribing witness annexed to it, such witness must be produced, or his absence accounted for, by shewing his death, or removal beyond the process of the court, or other fact rendering his attendance impracticable, and in that case it shall be necessary to prove both his handwriting and that of the party. But if the instrument be produced under a notice, this section shall not apply to the case.

35. When an instrument has been produced under a notice, or the party has not denied on oath that the instrument or signature is his handwriting, or where there is no subscribing witness, it shall be sufficient to prove the handwriting of the party. But if reasonable notice has been given to prove the handwriting of the subscribing witness as well as of the party, it must be done. The court shall judge of the reasonableness of the notice.

36. A document more than thirty years old, which is proved to have been found in the possession of a person who may reasonably be supposed to have been possessed of it, supposing it to be genuine, and which is attended by no circumstance tending to throw suspicion over it, shall be deemed to prove itself.

37. It shall be the right of the court, to expound all written evidence.

38. No testimony can be received to explain any instrument of writing, as to any doubt or ambiguity apparent on the face of it, but if in consequence of the introduction of testimony relative to persons, things or other matters mentioned in any instrument of writing, a doubt arises, such doubt may be cleared up by testimony.

39. No testimony shall be received, to prove that the terms of any written contract or other instrument were different from those therein stated, but testimony may be received to shew that an instrument is fictitious or fraudulent, and testimony may also be received to shew that there was an additional consideration, or other stipulation not inconsistent with the terms stated in the instrument.

## CHAPTER XII.

## OF ORAL TESTIMONY.

1. Oral testimony is the detail given on oath by living witnesses, of their knowledge of facts.

2. It shall be the right of the court to decide on the competency or admissibility of oral testimony, and of the jury to judge of its credibility and effect.

3. All oral testimony shall be admissible, which is delivered by a competent witness, and from which the human mind can properly draw any inference, having a bearing on the case.

4. Every witness shall be considered as competent, who cannot clearly be shewn to be incompetent. All objections not absolutely and directly going to competency, shall go to credibility only.

5. Every person shall be a competent witness who is not rendered incompetent, by defect of understanding, defect of religious belief, defect of moral character, through infamy, interest in the cause, or relation to one of the parties.

6. No person shall be deemed an incompetent witness by reason of a defect of understanding, who is able to give an account of the nature and obligation of an oath. It shall be the duty of the court to examine all children under twelve years old, as to this matter, before administering an oath to them.

7. No person shall be deemed an incompetent witness by reason of a defect of religious belief, except one who does not believe in a future state of rewards and punishments.

8. No person shall be deemed an incompetent witness by reason of a defect of moral character, or through infamy, except one who has been convicted of perjury.

9. No person shall be deemed an incompetent witness on account of an interest in the cause, except he be a party thereto, or bail, or otherwise security in the cause, for the party who calls him, or be answerable over to such party, or be responsible for the costs, or a part of them, or except the verdict or judgment can be given in evidence against him, or except he has an interest in the plaintiff's claim, or other thing in dispute. If he can be shewn to have an equal interest on both sides, he shall not be deemed disqualified on either.

10. No person shall be deemed incompetent on account of relationship to a party, except the relation be that of a husband and wife,

or except the witness be under twelve years of age, and be the child of the party, or reside with him under his care.

11. The persons described in the exceptions in the last five sections, shall be deemed incompetent witnesses.

12. Where a witness is incompetent from interest in the cause, he may be called and examined by the party against whom he is interested. Where a witness is incompetent, from interest, because he is bail, or surety, another sufficient surety may be substituted, and he discharged, to restore his competency.

13. A party to the cause shall not be called and examined as a witness at the trial, unless to prove his own handwriting, or the loss or delivery of a paper, or in some other case specially provided for by law, or by consent of all parties. But he may be examined on interrogatories in writing, filed in court, and a copy served on him, not less than ten days before the trial, and unless he file his answers in writing verified by oath, before the jury is affirmed, he shall be taken to admit the truth of all suggestions contrary to his interest, contained in the interrogatories. If he files answers, they and the interrogatories must be read to the jury. A party against whom interrogatories are filed, may within two days afterwards, file interrogatories, and serve a copy on the other party, which shall have the same effect, as if they were served ten days before the trial; unless the court shall be of opinion, under the special circumstances of the case, that such effect would work injustice. The case may, however, be postponed until such interrogatories are answered. If the court shall be of opinion that the answers to any interrogatories filed by any party, are defective or evasive, they may, in their discretion, require such party to be sworn in their presence, and examined as a witness at the trial, provided the other party agree thereto; and may permit the other party to abstain from reading them, whether the person giving written answers shall be so examined or not.

14. The incompetency of a witness by means of a defect of the understanding, must be proved by examination by the court.

15. The incompetency of a witness by reason of a defect of religious belief, may be proved by the examination of the court or by witnesses.

16. The incompetency of a witness by reason of a defect of moral character, must be proved by the record of his conviction, and by testimony of his identity.

17. The incompetency of a witness on account of interest, may be proved by his own oath, or in any other manner.

18. The incompetency of a witness on account of his relation to the party, may be proved by the oath of the witness, the oath of the party, or in any other manner. For that purpose a party may be examined at the trial.

19. The resorting to any one mode of proof to establish the incompetency of a witness, shall not preclude the party from resorting to any other.

20. The competency of a witness who is incompetent from interest only, may be restored by his releasing or assigning, or offering to release or assign his interest in the matter, which disqualifies him, or by the parties releasing their claims upon the witness, or offering to do so, and the witness refusing their release.

21. An interest acquired by a witness to disqualify himself, shall not produce that effect.

22. A witness shall be compellable to answer every question which may be asked him, unless he will swear that his answers may subject him to punishment, other than a pecuniary fine, or unless he be the confidential agent of one of the parties in the cause, and the question be one which such party himself could not be compelled to answer, and the witness have no knowledge of the subject, but what is derived from the confidential communication of the party.

23. A witness must generally be examined in the presence of the court and jury, if possible.

24. Either party may at any time, if he is fearful of losing the testimony of a witness, cause the testimony of such witness to be taken and reduced to writing by a justice of the peace, either in the presence of the opposite party or his agent, or after having given reasonable notice of his intention to do so. The court shall decide what is reasonable notice, according to the circumstances of the case, which, however, shall be never less than twenty-four hours.

25. If a witness resides or is out of the colony, and a party desires to obtain his testimony, he may file interrogatories in writing, and an application for a commission to some place to be named, naming his commissioner, and serve copies thereof on the opposite party; who shall thereupon within four days file cross-interrogatories in writing, and name his commissioner; in default thereof, the commission shall issue to the commissioner of the first applicant, and shall be forwarded without cross-interrogatories. A commission may by consent be issued to one commissioner.

26. It shall be the duty of commissioners appointed under the last section, to reduce to writing the depositions and answers on oath of all witnesses, who may appear before them, and send them, carefully sealed up, to the court.

27. If the witness reside in a country, where the execution of commissions is not allowed, the court may send interrogatories and cross-interrogatories, with a letter rogatory, addressed to the proper authority, requesting such authority to take the depositions and answers of the witnesses.

28. Depositions taken out of court, can only be used when the witness cannot be produced in court.

29. Leading questions, that is, such as instruct a witness how to answer, shall not be asked, unless where merely introductory, or on cross-examination, or of a witness who is also a party.

30. A witness shall depose to such facts only, as are within his own knowledge and recollection.

31. A witness may refresh his memory by reference to a written memorandum made by himself, or made by another and examined by himself, while the occurrences mentioned therein were still recent.

32. A witness shall only depose to facts, not to opinions, except in cases of science, or peculiar knowledge which he may possess, from his peculiar studies, occupations, or pursuits, and except in questions of general character.

33. On cross-examinations, leading questions may be put.

34. A witness may be cross-examined as to all matters touching the cause, or likely to discredit himself; but he shall not be asked irrelevant or hypothetical questions for the mere purpose of entrapping or contradicting him.

35. The credibility of a witness may be impeached, by giving evidence of his general character, or by showing his conviction of particular crimes, producing the record of the conviction; but not by proving particular allegations, not before that time judicially established.

36. The credibility of a witness may also be impeached by showing that he has contradicted himself, either in or out of the court.

37. When the testimony of a witness is attempted to be impeached, his former statements may be given in evidence to corroborate his testimony. This rule does not apply to a witness who is also a party.



38. A party shall not impeach the credibility of his own witness, who is not also a party, although he may contradict him, by the testimony of other witnesses, or by documentary evidence.

39. The court or jury may, for their own satisfaction, inquire into the credibility of the witnesses on either side.

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## CHAPTER XIII.

### OF OATHS AND AFFIRMATIONS.

1. Parties in actions, where an oath is required of them, and witnesses, shall be sworn in the manner hereinafter directed, unless where the court shall be satisfied that the person is conscientiously scrupulous of taking an oath on any occasion; in which case his solemn promise or affirmation shall be substituted for an oath.

2. Jurymen, triors, appraisers, commissioners, interpreters who are civilized men, and all other persons who are presumed to be selected on account, in part, of respectability of character, shall only be required to give a solemn promise or affirmation that they will perform their respective duties.

3. When it is necessary to employ an uncivilized man, to interpret a language spoken by uncivilized men, he must be sworn. All natives of Africa, who are not Christians, Jews, or Mahometans, are to be considered uncivilized.

4. The manner of administering an oath to all persons shall be such as those of the religious persuasion, profession, or denomination, of which such person is one, generally esteem the most effectual confirmation, by the attestation of the Divine Being; and all persons holding it unlawful to take an oath on any occasion, shall be allowed to make their solemn promise or affirmation, to be of the same avail as an oath, in all cases whatever, the court being satisfied of the reality of their scruples.

5. Oaths shall be in the following form, unless where a different one is required by the principles of the last section: ‘ You do solemnly promise and swear, in the presence of the omniscient and heart-searching God, that [*here insert the substance of the promise*] as you will answer the same to the Great Judge of quick and dead;’ to which the person sworn shall assent, lifting up his hand.

6. The form of a solemn promise and affirmation shall be—‘ You do solemnly and sincerely promise and affirm, that’ [*here insert the substance of the promise.*]

7. The oath or affirmation of a witness shall be—‘that the evidence, which he shall give to the court *and jury*, in the matter now depending before them, shall be the truth, the whole truth, and nothing but the truth.’ Where the evidence is to the court alone, the words ‘and jury’ shall be omitted.

8. Where the witness is a party, or only examined to ascertain his competency, the oath or affirmation shall be—‘that he shall true answer make to all such questions as shall be asked him by the court or its authority.’

9. The promise of a juryman impannelled to try a question of fact, other than the amount of a debt, or of damages, shall be—‘that he will well and truly try the *issues* joined between A. B., plaintiff, and C. D., defendant, and a true verdict give, according to the evidence.’ If there is but one *issue*, that word shall be in the singular.

10. The promise of a juryman impannelled to ascertain the amount of a debt, after an imperfect judgment, shall be—‘that he will well and truly try and assess the debt, due by the defendant to the plaintiff.’

11. The promise of a juryman impannelled to ascertain the amount of debt or damages, after an imperfect judgment, shall be—‘that he will well and truly try and assess the *debt due by the defendant to the plaintiff*, in the action in which A. B. is plaintiff, and C. D. defendant;’ except, in an action other than one of debt, the words ‘*damages sustained by the plaintiff*,’ shall be substituted for the words ‘*debt due from the defendant to the plaintiff*.’

12. The promise of a juryman impannelled to ascertain the value of goods in replevin shall be—‘that he will well and truly try and ascertain the value of the goods in question in an action of replevin, wherein A. B. is plaintiff and C. D. defendant.’

13. The whole jury may be affirmed at once.

14. The court may combine or otherwise accommodate the preceding forms of the promise of a juryman, to suit the peculiar circumstances of particular cases.

15. The promise of a trior shall be—‘that he will well and truly try whether A. B. stands indifferent between the parties in the cause now depending before the court.’

16. The promise of an appraiser shall be—‘that he will well and truly value and appraise all articles, which he shall be required to value and appraise, during the present service, according to the best of his skill and knowledge.’

17. The promise of a commissioner to take testimony shall be—that ‘he will, according to the best of his skill and knowledge, truly, faithfully, and without partiality to any person, take the examinations and depositions of all and every witness produced and examined before him.’ In cases of commissions to be executed out of the colony, it shall be sufficient for the commissioners to subscribe this promise.

18. The promise of a clerk to a commissioner, where there is one, shall be—‘that he will truly, faithfully, and without partiality, take, write down, and transcribe, the depositions and examinations of all and every witness examined, before the commissioners named in the annexed commission, so far forth as he is directed and employed by the said commissioners, or any of them, so to do.’ In cases of commissions executed out of the colony, it shall be sufficient either for the clerk to subscribe this promise, or for the commissioners to certify that he was duly affirmed.

19. The promise of a commissioner of bail shall be—that ‘he will truly, faithfully, and without partiality, execute the office of a commissioner of bail.’

20. The promise of an interpreter shall be—that ‘he will truly, faithfully, without partiality, and to the best of his skill and ability, perform the duty of an interpreter in the cause now depending before the court.’

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## CHAPTER XIV.

### OF CERTAIN INCIDENTAL PROCEEDINGS.

1. Where goods have been replevied, or goods or other property taken out of the possession of a defendant, under the provisions of the thirty-fifth section of the second chapter, it shall be lawful for the defendant to move for a return of such goods or other property; and the court shall proceed, without the aid of a jury, to hear such motion, after reasonable notice to the parties, of the time of hearing; and if it shall appear to the court, on examining witnesses or other evidence, that the defendant in replevin did not acquire possession of the goods replevied by force or fraud, or that the plaintiff in specific performance or enforcement is not entitled to the possession of the property under the contract, sought to be enforced in the action, the court may order a return of the property, without prejudice to the final decision of the cause.

2. Whenever goods taken in replevin are returned under the last section, the defendant shall give security, to be approved by the court, that he will return the goods to the plaintiff, if the court shall so direct.

3. Whenever goods shall have been attached, which are of a perishable nature, or expensive to keep, the court, or any judge thereof, may, on the application of any party interested, order a sale of such goods, and a writ of sale to be issued.

4. Whenever an answer, verified by oath, is filed in injunction, the defendant may move for a dissolution of the injunction, and the court shall fix a day for the hearing of the same, giving reasonable notice thereof. It shall be heard in a summary way, without a jury, and the court may dissolve the injunction, without prejudice to the final decision of the cause.

5. Whenever a party shall die, or assign his property for the benefit of his creditors, his legal representative shall be made a party in his stead; and if such legal representative will not voluntarily appear, and prosecute or defend the cause, the other party may issue a summons for such legal representative, and if necessary, a re-summons; and on a return of summoned, or any return to a re-summons, if such legal representative still refuse or neglect to appear, a judgment by default may be entered against him. Any person may inform the court of the death of a party. The provisions of this section shall not extend to actions for personal injuries, nor to cases in which, by the death of one of several co-parties, his interest in the matter in dispute in the cause passes to his co-parties. Where the action for a personal injury is by or against a man in respect of a personal injury, committed by or against his wife, the action will survive to or against his wife, and she may be made a party, in the place of her husband, either voluntarily, or in the manner above directed.

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## CHAPTER XV.

### OF ARBITRATIONS.

1. It shall be lawful for the parties in any action, at any time before verdict or judgment, or for any persons having a dispute, not yet made the subject of an action, to apply for a rule of court, to refer such action or dispute to arbitrators, which rule shall be

made, if the court are satisfied that all the parties concerned have consented.

2. The arbitrators named in the rule may be one, two, or three in number; if two, they shall have power to choose a third.

3. Arbitrators appointed by rule of court shall have the same authority to summon witnesses, examine them, and administer oaths and affirmations, as the court making such rule. They may also direct the clerk of such court to issue commissions to take testimony to be used before them, and may enforce their summons, and compel the answers of witnesses, by writ of arrest and fine, associating with themselves, for those purposes only, a justice of the peace, who shall sign such writs and orders for fine. Such fines may be enforced by action of debt, in the name of the colony, unless paid without compulsion.

4. Arbitrators may dispose of all questions of costs of the action or arbitration, as incidental to their authority, and may make any award which the court can enforce by a judgment.

5. The award must be in writing, and signed by the arbitrators, or a majority of them.

6. The award shall be evidence of all facts stated in it, against all the parties to the arbitration, and shall be conclusive, after a judgment shall have been entered upon it. It shall then be equal to a verdict.

7. Every thing shall be presumed to support the award, until the contrary be proved.

8. No judgment shall be entered on an award, until four days after the party against whom it is rendered, has been served with a copy thereof.

9. Either party to an award may file his objections, in writing, at any time before a judgment is rendered thereon.

10. The objections may be, either corruption in the arbitrators, gross partiality, want of notice of the time and place of proceeding, or error in law, apparent on the face of the award. In all cases, except in the last, the objection must be verified by affidavit.

11. The court shall appoint an early day for hearing such objections, giving reasonable notice to the parties; they shall be heard in a summary way, without a jury, and decided by the court upon the evidence adduced. The court may either confirm the award, or set it aside, as they may deem just; and, if they set it aside, may send it back to the same or other arbitrators, with or without instructions; or may cause the case to be tried by a jury.

12. Whenever a case shall present complicated accounts not fitted to be unravelled by a jury, the court may, without consent, refer them to arbitrators as aforesaid; but in such cases, the award shall state the particulars of the account on both sides, and whether allowed or rejected by the arbitrators; and either party may except to the allowing or rejecting any item; which exceptions, if required, shall be tried by a jury.

13. The court shall in such case give such judgment as may be proper, taking into view both the award and finding of the jury.

14. If no objections or exceptions are filed to an award, it shall be confirmed, of course.

15. Whenever an award is confirmed, final judgment shall be rendered thereon, as soon as may be.

16. Any persons may refer any dispute between them to arbitration, in any manner they may think proper; but unless it be done agreeably to the previous provisions of this chapter, the award shall not be the foundation of a judgment, without a new action. Such reference shall be irrevocable, unless by consent of both parties.

17. An action of debt shall lie on an award for the payment of money only. An action of contract or specific performance, on any other award.

18. In any action brought upon an award, every thing shall be presumed in favour of the award, the reference and the signatures of the arbitrators being first proved, and the award shall be evidence of all facts stated in it, although liable to be contradicted by other evidence.

19. An award not made in pursuance of a rule of court, shall in all cases be evidence of its own existence, the reference and signatures of the arbitrators being first proved, and in all cases every thing shall be presumed to support it. It shall be some evidence of facts stated in it against the party in whose favour it is given, and also against the other party, in a contest between them, although liable to be contradicted by other evidence.

## CHAPTER XVI.

OF IMPERFECT JUDGMENTS AND PROCEEDINGS AFTER THEM  
TOWARDS FINAL JUDGMENT.

1. An imperfect judgment is given when the court, although they see from the proceedings, that one party is entitled to succeed in the case, are not yet informed as to the extent of his right of recovery.

2. Imperfect judgments are either by default, by confession, or on questions of law, or after an imperfect verdict.

3. Judgments by default are given in the cases provided for in the second chapter, or other parts of this ordinance; and whenever a party formally abandons his claim or defence, and refuses to prosecute his case, or to resist the claim of his adversary before a jury is affirmed, after the jury is affirmed there must be a verdict. A plaintiff may, before the jury is affirmed, abandon his claim, reserving expressly his right to renew his action.

4. Judgments by confession are, where either party confesses that the other is right, and that he is wrong. If the confession stops there, the judgment must be imperfect, but the parties may go on and ascertain the debt or damages and costs also by confession, and in that case a final judgment shall at once be given.

5. Judgments on questions of law are given when any action has been decided by the court without a jury, either because the case presented no question of fact, or because it turned solely upon the existence of a record.

6. Judgments after an imperfect verdict are given either after a special verdict, in which the jury have neglected to find the debt or damages, or after the jury shall have reported their opinions as to the amount of debt or damages to the court, under the provisions of the twelfth section of the ninth chapter; and also in all actions of special performance.

7. The form of an imperfect judgment, except in injunction, shall always be—‘The court adjudge that the plaintiff is [*or is not*] entitled to recover.’

8. The form of an imperfect judgment in injunction may be either ‘The court adjudges that the injunction ought to be made perpetual,’ or ‘The court adjudges that the injunction ought to be dissolved.’ If the injunction have been once dissolved on motion, and the court

on the final trial should think that it ought to be renewed, the imperfect judgment may be—'The court adjudges that the injunction ought to be renewed and made perpetual.' If the court shall in any way modify the original injunction, they may modify the imperfect judgment to suit the circumstances of the case.

9. In case of an imperfect judgment for the plaintiff, in an action of debt, in which there is a written instrument or instruments, ascertaining the amount of the debt, or in an action of replevin, where the goods, at the time of the imperfect judgment, are in the hands of the plaintiff, it shall be the duty of the court to ascertain the debt or the damages to be recovered from the defendant.

10. In all other actions of debt or replevin, and in all actions of contract or damages, it shall be the duty of the court, except in the cases hereinafter otherwise provided for, to cause a jury to ascertain the debt or damages.

11. In all actions of replevin, where the goods are in the hands of the plaintiff, and the judgment is for the defendant, the court shall cause a jury to inquire into the value of the goods, if the defendant demand such inquiry, or, by consent of parties, the court may ascertain such value themselves.

12. In all cases whatever, it shall be the duty of the court to ascertain the costs, and consequently to complete all judgments for the defendant.

13. In actions of specific performance and injunction, where the plaintiff has recovered, it is the duty of the court to ascertain what is the injunction which ought to be made perpetual, or to what specific performance the plaintiff is entitled, as well as to ascertain the costs, and consequently to complete all judgments in those actions.

14. As there are ordinarily no damages in ejectment, it is the duty of the court to complete all judgments in that action, except in the case provided for in the next section.

15. It shall be lawful for a plaintiff in ejectment, who has succeeded in obtaining a verdict or an imperfect judgment, to file a petition to the court, praying that he may have judgment, for the damages he has sustained by the detention of his land; and the court, giving reasonable notice to the other party, shall cause a jury to inquire into the extent of such damages, and complete the judgment accordingly. The provisions of this section shall not be deemed to apply to ejectments, brought for lands forfeited for non-payment of rent. In such cases the plaintiff can have no damages.



16. In actions of enforcement the court shall complete the judgment, ascertaining the costs, and doing whatever else is necessary for that purpose. An action of enforcement is only necessary where a judgment has stood without execution two years, or a party has died.

17. In imperfect judgments, after an imperfect verdict, the court may either ascertain the debt or damages themselves, or, on the demand of either party, it may be done by a jury; but if such jury cannot agree, the amount of the debt or damages shall be settled by the court.

18. Whenever the services of a jury are necessary, or required to complete an imperfect judgment, the court shall add to such imperfect judgment an order for their attendance.

19. The court may, by consent of parties, ascertain the debt or damages, and complete imperfect judgments in all cases.

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## CHAPTER XVII.

### OF FINAL JUDGMENTS.

1. As soon as a perfect verdict is rendered, or an imperfect judgment completed, the court shall proceed to render a final judgment.

2. The form of a final judgment in debt for the plaintiff shall be—‘The court adjudges that the plaintiff recover from the defendant the sum of ——— for his debt, and the sum of ——— for his costs in this action.’ Interest, where allowed, shall be computed as part of the debt.

3. The form of a final judgment for the plaintiff in specific performance shall be—‘The court adjudges [*here insert the substance of the judgment*] and that the plaintiff recover from the defendant the sum of ——— for his costs in this action.’

4. The form of a final judgment for the plaintiff in an action of contract or damages shall be—‘The court adjudges that the plaintiff shall recover from the defendant the sum of ——— for his damages, and the sum of ——— for his costs in this action.’

5. The form of a final judgment for the plaintiff in injunction shall be—‘The court adjudges that the defendant be forever enjoined and prohibited from [*here insert the substance of the injunction*] and that the plaintiff recover against the defendant the sum of ——— for his costs in this action.’

6. The form of a final judgment for the plaintiff, where he is in possession of the goods in replevin, shall be—‘that the plaintiff hold the goods without being liable to be disturbed by any future replevin, and also recover against the defendant the sum of —— for his costs in this action.’

7. The form of a final judgment for the plaintiff in replevin, when the goods are in the defendant’s possession, shall be—‘The court adjudges that the defendant return the goods to the plaintiff, or pay him the sum of —— for his damages; and that the plaintiff hold the goods, if returned, without being liable to be disturbed by any future replevin, and recover against the defendant the sum of —— for his costs in this action.’

8. The form of a final judgment for the plaintiff in ejectment shall be—‘The court adjudges that the plaintiff shall recover against the defendant the lands mentioned in the complaint, and the sum of ——, for his costs in this action.’ When all the lands mentioned in the complaint are not recovered, the judgment shall describe the lands recovered, and add the words ‘part of’ before the words ‘the lands.’

9. Where damages have been ascertained in ejectment, under the provisions of the fourteenth section of the last chapter, the court shall insert in their judgment, after the word ‘complaint,’ the words ‘and the sum of —— for his damages.’

10. The form of a final judgment in enforcement shall be—‘The court adjudges that the plaintiff may have execution against the defendant, of the judgment mentioned in the complaint, and shall recover against him the sum of —— for his costs in this action.’

11. Whenever the interval between the ascertainment of the debt or damages and the rendition of the final judgment shall be so great that the interest on the debt or damages shall exceed two dollars, the court may ascertain the amount of such interest, and may, in their discretion, insert in the judgment, after the word ‘debt,’ or ‘damages,’ as the case may be, the words ‘and the sum of —— for additional debt,’ or ‘additional damages,’ as the case may be.

12. The form of a final judgment for a defendant shall be—‘The court adjudges that the complaint of the plaintiff be dismissed, and that the defendant recover against the plaintiff the sum of —— for his costs in this action.’

13. If the action be injunction, and the injunction be not dissolved before the final judgment, the words ‘and that the injunction be dissolved’ shall be added after the word ‘dismissed.’

14. If the judgment for the defendant be in replevin, and the goods are in possession of the plaintiff, they may add at the end of the judgment, 'and that the plaintiff return the goods to the defendant, who shall hold the same, without being liable to be disturbed by any future replevin, or pay him the sum of —— for the value thereof.'

15. If there has been no ascertainment of the value of the goods, so much of the judgment in the last section as relates to the value shall be omitted.

16. If the judgment for the defendant be in replevin, and the goods be in possession of the defendant, the court shall add at the end of the judgment in the last section but one, 'and the defendant shall hold the goods, without being liable to be disturbed by any future replevin.'

17. The court may alter any of the preceding forms, so as to accommodate it to the peculiar circumstances of a particular case.

18. All final judgments shall carry interest from the day of their rendition, of which it shall be the duty of the clerk of the court to keep a memorandum. The interest shall be computed upon all sums mentioned in the judgment, whether debt or additional debt, damages or additional damages, or costs.

19. The court, or jury, or arbitrators, shall, in all cases, compute interest at such rate as they may deem proper, not exceeding six per cent., unless there shall be a special written agreement for a higher rate, not exceeding twelve per cent. A special written agreement for a rate of interest greater than twelve per cent. per annum shall be rejected, and interest computed at a rate not exceeding six per cent. Interest on judgments shall be computed at the rate of six per cent. per annum, except in cases where a higher rate upon the original contract, not exceeding twelve per cent., shall have been agreed upon in writing, and the court shall positively direct in the judgment that it shall bear interest at such higher rate, and in the case provided for in the next section.

20. Where an appeal shall be taken from any judgment, and such judgment is affirmed, it shall be lawful for the court to which the appeal is taken, in affirming such judgment, to direct, in their discretion, the interest thereon, to be calculated at a rate of interest not exceeding twelve per cent., where the judgment bears a lower interest than eight per cent.—and in no case exceeding fifteen per cent.

## CHAPTER XVIII.

## OF EXECUTION.

1. Immediately after the entering of the final judgment, the successful party may demand a writ of execution. But if either party to the judgment have died, leaving no surviving plaintiff or defendant, as the case may be, or if the judgment be of two years' standing, no execution shall issue without an action of enforcement.

2. A writ of execution shall be directed to the sheriff, commanding him to seize and expose to sale the lands, goods, and chattels of the party against whom the judgment has been rendered, until he has raised the sum of money named in the judgment, and interest; and if he cannot find any lands, goods, or chattels of the said party, to arrest him, and bring him before the court, or some judge thereof, to be dealt with according to law, unless he pays to the said sheriff the said sum of money, and interest, or shows him property, to seize and sell for the same; and when the money is raised or paid, to pay the same over to the party entitled to receive the same, and to make known to the court how he has executed the said writ, upon a day to be therein named. Any person may, at any time, issue an attachment in enforcement, instead of an execution.

3. The sheriff shall literally execute the commands of the writ of execution, and shall cause an appraisement and schedule of all property seized by him to be made, as in the case of attachment, and annexed to the writ.

4. The sheriff may return to the said writ, either that he has made the money, and paid it over to the person entitled to receive it; or that he has it in court, ready to pay over; or that he has seized the property mentioned in the annexed schedule, and that it remains in his hands, for want of buyers; or that he has arrested the party named in the writ, and now has him in court; or that he arrested him, and he was discharged by such an authority; or that he cannot find the party, or any lands, goods, or chattels of his.

5. Where the sheriff returns to a writ of execution, that he has property on hand, for want of buyers; or where there is property in the hands of the sheriff, taken under an attachment, in the same case, a writ of sale may issue, commanding the sheriff to sell said property, and pay over the proceeds to the party entitled to receive

them; or if property has been previously sold and the proceeds are in court, they may be paid over by an order of court.

6. When a sheriff goes out of office, or dies, it shall be his duty, or that of his representatives, to hand over to his successor all property in his hands under execution or attachment; and the new sheriff shall in each case file a statement or schedule of the property so handed over to him, and as to all such property the writ of sale shall go to the new sheriff.

7. The party may, giving reasonable notice to the old sheriff, or his representatives, move the court for a judgment against such sheriff or his representatives, for the value of any property not handed over, and the court may enter such judgment in a summary way, without formal proceedings, regarding it as a judgment in an action of damages. A jury shall not be necessary, but the court may ascertain the damages by comparing the two schedules. A similar proceeding may take place, whenever the sheriff shall refuse or neglect to pay over money, or deliver over property which he ought to pay or deliver over as sheriff.

8. Where an attachment has been laid in the hands of a garnishee, who has appeared and defended the case, or where an attachment has been laid in the hands of a garnishee, and neither the defendant nor the garnishee appear, there shall be a final judgment against the garnishee, a judgment by default having been first entered in the last case; and on such final judgment an execution may issue against such garnishee for the amount so attached in his hands. But if the garnishee appear and defend the case, he may demand that the jury inquire into the value of the debt due from him to the defendant, or of the property of the defendant in his hands; and if it be less than the sum attached in his hands, the judgment shall be for no more than the jury find; and if it be property, he shall not be obliged to purchase it, at the valuation of the jury, but may prevent an execution, by delivering up to the sheriff the specified articles, which he may require the jury to find, and which shall then be sold by writ of sale, the sheriff having first filed a schedule of them.

9. When the defendant has appeared, there shall be no judgment against the garnishee, until after a proceeding similar to that directed against a sheriff in the seventh section; in which, however, the garnishee may demand a jury, and such proceedings by and before them may be had as are directed in the eighth section, and the party may relieve himself from execution in the manner provided for in the eighth section; but the proceedings and judgment, if one

is rendered, shall in all other respects be regulated by the seventh section.

10. Whenever property in the hands of the sheriff, on account of its perishable or expensive nature, or for any other legal reason, is ordered to be sold, a writ of sale shall be issued.

11. If property against which a writ of sale has been issued is not sold in pursuance of the first writ of sale, other writs of sale may be issued until it is sold.

12. If the sheriff neglects his duty under a writ of execution or sale, an action of damages may be maintained against him.

13. Every sheriff, to whom a writ of execution or sale has been directed, shall have authority, and it shall be his duty, to put the purchaser or purchasers of any property movable or fixed, sold by virtue of such writ, in possession of such property, if the sheriff himself, or the person against whom the writ was issued, is in possession of the same. It shall also be his duty, and he shall have authority, to execute all instruments of writing or other evidences of title, which may be necessary or proper for the security of such purchaser or purchasers.

14. Whenever a plaintiff shall recover in ejectment or replevin, the goods in the latter case being in the possession of the defendant, he may, in his discretion, obtain a writ of possession, directing the sheriff to deliver to him such lands or goods, which writ it shall be the duty of the sheriff to execute.

15. The purchaser of lands or goods at sheriff's sale may have a writ of possession, requiring the sheriff to deliver such lands or goods to him, upon shewing sufficient evidence of his title, and that the lands or goods were in possession of the sheriff or of the party, as whose property they were sold. All of which matters the court may inquire into in a summary way, without a jury, giving such notice as they may deem reasonable to the parties in possession.

16. Judgments in injunction and specific performance, may be enforced by writ of arrest, bringing the defendant before the court. On his appearance, the court may punish him by fine, or otherwise in their discretion, and may repeat the proceeding until the object is attained.

17. Where property has been attached as per schedule, at the commencement of proceedings, and the attachment has not been dissolved, but the property remains in the hands of the sheriff, as security for the judgment; or where mortgaged, or pledged property, has so been attached, and so remains, a writ of sale shall

issue in place of an execution, and such attached property shall be sold under the same. But if the attached property do not produce sufficient to discharge the judgment, a writ of execution may afterwards be issued for the amount deficient.

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## CHAPTER XIX.

### OF INSOLVENCY.

1. Insolvency is the condition of a man whose property is not sufficient to pay his debts.

2. Whenever a man is insolvent, all conveyances, assignments, transfers, and deliveries of his property shall be void and of no effect; but conveyances, assignments, transfers, and deliveries of his property, made ninety days before his assignment for the general benefit of his creditors, as hereinafter provided for, to persons ignorant of his insolvency, shall be valid. It shall be presumed that every man is insolvent, for ninety days before he applies for permission to assign his property, for the general benefit of his creditors. Before that time, his acts are valid, unless his insolvency can be proved.

3. Every person arrested on a writ of execution, or a writ of arrest, for debt, contract, or damages, not for personal injuries, shall be at liberty to declare himself insolvent, and apply for leave to assign his property for the general benefit of his creditors.

4. The application must be made to the court issuing the writ of execution, or to some judge thereof, and it shall be the duty of the sheriff to take such person before the said court or judge, as soon as he is required so to do.

5. The court or judge shall require the applicant to file a schedule of all his money and other property, and of all debts due to, or from him, as far as he can ascertain them, and to verify the same by his oath.

6. The court or judge shall then appoint some person to take charge of the property, who shall immediately call a meeting of the creditors, to elect a trustee to act for their benefit. In such election every person shall, for each twenty dollars of debt due him, be entitled to one vote. Creditors for less than twenty dollars shall be entitled to a vote each.

7. As soon as the trustee so elected has given security before the court or judge, all the property, whether real or personal, of the

insolvent shall, by operation of law, be vested in him, as if the insolvent were dead, and he were his administrator, and he shall proceed to take possession of all his property, and to administer the estate in the same manner as an administrator, except that he shall make no difference between real and personal property, and shall account for his proceedings in the same manner, and to the same authority. The trustee shall, as much as possible, be likened to an administrator in his duties, rights, remedies and liabilities, in the manner of proceeding against him, and the causes for which proceedings may be had, and in all respects whatever.

8. The court or judge shall, on the insolvent filing the schedule required in the fifth section, require him to take an oath that he will disclose any property or debts not mentioned in his schedule, which he may hereafter discover, and that he has not secreted any thing belonging to him, and has not, in expectation of making that application, done any act to diminish his estate or injure his creditors, or prevent them or any of them, from recovering their just proportion of his property.

9. The court or judge shall require the insolvent to give security that he will appear when called upon, to answer any allegations or interrogatories which may be filed against him.

10. The court or judge may then discharge the insolvent from arrest, and from all future arrests for any debts he may owe, or actions to which he may be liable at that time. But such discharge shall not extend to any execution, or other writ, founded on an action of damages for an injury to the person, reputation or domestic relations of any person, except the particular execution upon which the defendant is arrested.

11. When an insolvent is arrested upon an execution, founded on an action of damages, for an injury to the person or domestic relations of another, he shall proceed in all respects in the same manner as if arrested upon an execution, founded on a judgment in any other action; but the court or judge shall not discharge him until he has suffered imprisonment, in the discretion of such court or judge, who shall be guided in the extent of the imprisonment by the amount of the damages, allowing for any imprisonment he may have suffered, under a writ of arrest or execution in the same action.

12. Every creditor of an insolvent may file at any time within one year of his discharge, before the court discharging him, allegations of fraud, committed either in contracting the debt due to such creditor, or in the application for permission to assign.



13. Every concealment of money, or other property or debts due the insolvent, every conveyance, assignment, transfer, or delivery of any money, property, or effects, to any person whatsoever, made without consideration, shall be deemed a fraud.

14. Every conveyance, assignment, transfer, or delivery of any property or effects to any creditor of the insolvent in payment or diminution of his debt, within ninety days before his application, or at a greater distance of time, with a knowledge of existing insolvency, or with a view to an application, shall be deemed a fraud.

15. Every transaction fraudulent, within the two last sections, or otherwise, shall be void, as against the trustee.

16. The trustee, or any creditor may examine the insolvent on interrogatories, as to all such transactions, or any other matter connected with his insolvency; and his answers reduced to writing, and verified by oath, shall be evidence against him and against all persons claiming under him, or interested in any transaction, which is pronounced a fraud by the thirteenth and fourteenth sections.

17. Every insolvent convicted of fraud in the contracting a debt, or in his application as aforesaid, shall be imprisoned in the discretion of the court.

18. Every defendant arrested on a writ of arrest, only to secure his appearance in any case, not an action of damages, for an injury to the person, reputation, or domestic relations of another, may proceed in all respects as if he had been arrested on a writ of execution, and may be discharged in the same manner and on the same conditions, and subject to all the same proceedings and other consequences, and shall then be entitled to appear in the action without bail. Nothing in this section contained shall apply to an action of injunction.

19. Every insolvent may retain the necessary wearing apparel and bedding of himself and his family, and other articles privileged from execution, and the title thereto shall not vest in his trustee, agreeably to the previous provision on this subject: Provided, that a schedule of articles so retained, verified by oath, be produced to the court or judge discharging such insolvent, and filed; and such court or judge may require the articles mentioned in such schedule to be produced, and cause them to be appraised, and may order such of them as such court or jury may deem unnecessary, unreasonable, or not to come under the description of privileged articles, to be delivered up for the benefit of the creditors; or such court or judge may allow the insolvent to retain them, becoming debtor to

his trustee for the appraisement. This, however, to be regarded as an indulgence in the discretion of the court or judge, who shall also have power to determine the length of the credit.

20. Every insolvent may retain the necessary tools of his trade, filing a schedule of them, verified by oath, and procuring them to be appraised under an order from the court or judge discharging; but such insolvent shall be regarded as a debtor to his trustee for the amount of the appraisement. The debt to be paid at the time prescribed by the court or judge. Every insolvent may refuse to take his tools at the appraisement, either before or after the appraisement is made.

21. Every schedule, appraisement, petition or other paper produced before a single judge, in a case of insolvency, or made by order of such judge, shall be filed with the clerk of the court of which such judge is a member.

22. Whenever any person shall have applied for permission to assign his property for the benefit of his creditors, and a trustee shall have been appointed and given bond in the manner herein before provided for, it shall be the duty of the court or judge approving such bond, to cause the same to be transmitted to the clerk of such court; and every clerk of such court shall forthwith record all the papers touching such application and appointment, including said bond, in a book to be kept for that purpose, and shall transmit the original papers to the authority to whom such trustee is bound to render an account, agreeably to the foregoing provisions of this chapter: who shall retain the same, and summon the trustee as often as may be deemed proper, to render an account of his trust; and shall keep a docket or list of all such cases, containing the names of the insolvents, of the trustees, and of the securities of the trustees, and shall note thereon the dates of all accounts rendered by the parties, and the balances due from such trustees by such accounts, and shall keep an index to such docket in the name both of the trustees and insolvents.

23. The word imprisonment, wherever it occurs in this chapter, shall be so understood that the court or judge, authorized to impose the same, may, in the exercise of a sound discretion, substitute for imprisonment, properly so called, labour on the public farm, with close confinement at night.

## CHAPTER XX.

## OF APPEALS.

1. Every person against whom any judgment is rendered shall, after a court of appeals has been provided by law, be entitled to appeal from any decision or opinion of any court, except such court of appeals.

2. There shall be no appeal from any verdict of a jury, in any question of mere fact, except to the court in which the case was tried, for the purpose of setting aside the verdict in the manner herein before provided for.

3. It shall be the duty of the party, who intends to appeal from any opinion or decision of a court, which does not appear upon the face of the ordinary proceedings in the case, to cause such opinions or decision, with the evidence and prayer or motion upon which it is founded, to be reduced into writing and signed by the judge or judges on the day on which such opinion or decision is pronounced.

4. The writing required by the last section shall be called a bill of exceptions, and shall be annexed to the ordinary record, and considered as a part of it.

5. It shall be the duty of the clerk of the court from which an appeal is taken, to make up a record containing all the writs, returns, complaints, answers, replies, verdicts, bills of exceptions, judgments, and other proceedings in the cause, and to transmit such record to the court to which the appeal is taken.

6. Every appeal must be taken within sixty days after final judgment.

7. Every party taking an appeal shall be called 'appellant,' and the party against whom it is taken 'appellee.'

8. Every appellant must give security, to be approved by the court, that he will indemnify the appellee from all injury arising from the appeal, and will comply with the judgment of the court to which the appeal is taken, or any other to which the cause may be removed, or his appeal shall be dismissed.

9. An action of contract shall lie against the sureties so given, in which the measure of damages shall be the final judgment in the original cause, and interest or other damages arising from delay, to be computed as the appellate court may direct.

10. The court to which the appeal may be taken shall examine

the matter in dispute, upon the record only; they shall receive no additional evidence, and they shall reverse no judgment for any default of form, or for any matter to which the attention of the court below shall not appear to have been called, either by some bill of exceptions, or other part of the record.

11. It shall be the duty of every court to which an appeal is taken, if the judgment of the first court is reversed, to give such judgment as that court ought to have given, and to ascertain the costs incurred since the first judgment, and to give judgment for them also.

12. When any superior or appellate court shall reverse any final judgment, and it shall appear to them upon the record that the plaintiff, or the defendant in replevin, in a case where the goods replevied are in the possession of the defendant, is entitled to recover, and it shall not appear by the record, what sum such party ought to recover, they may proceed to give an imperfect judgment in favour of such party, and, by consent of parties, ascertain what ought to be the final judgment, and render such judgment; or if the parties will not consent to such ascertainment, shall order an ascertainment by a jury, at the bar of the court below, of the amount of the debt or damages, or the value of the property replevied, as the case may be, and direct such inferior court to give final judgment upon such inquiry. If the action be brought to recover a liquidated sum, ascertained by an instrument of writing, signed by the party against whom the imperfect judgment is given, or if the case be one in which the court below might have ascertained the damages without a jury, such superior or appellate court may assess the debt or damages, and give final judgment without the consent of parties.

13. Where it does not appear to the appellate court, by the record, on account of the mixture of questions of law and fact, for which party the judgment ought to be given, it shall be the duty of such superior or appellate court, to remand the case to the court in which it was originally tried, to be tried over again.

14. The third, fourth, fifth, twelfth and thirteenth sections of this chapter, shall not be construed to apply to appeals from the decisions of justices of the peace.

## CHAPTER XXI.

## OF JUSTICES OF THE PEACE.

1. Justices of the peace shall have jurisdiction out of court without a jury, of all actions where the value of the thing in dispute does not exceed twenty dollars, except specific performance, injunction, and ejectment, and actions for injuries to the reputation or domestic relations.

2. The third, fourth, fifth, sixth, ninth, and nineteenth chapters of this title, so much of the seventh, eighth, and twentieth, as relates to juries, new trials, and records, shall not apply to cases tried before justices of the peace.

3. So much of the twelfth chapter as relates to issuing commissions to take testimony without the colony, shall not extend to justices of the peace; but either party may petition the court to which an appeal from the justice lies, for a commission; and such court may, if they think proper, issue a commission, and stay the proceedings of the justice until it can be executed.

4. Writs of execution may be issued by a justice of the peace, returnable before a superior court; and such court, or any judge thereof, shall have jurisdiction to proceed according to the directions of the nineteenth chapter.

5. No justice of the peace shall have authority to issue a writ of arrest, against a defendant in an action, as such, or a writ of execution containing a clause of arrest, except writs of execution issued under the last section, and agreeably to its provisions.

6. Courts shall have concurrent jurisdiction, with justices of the peace, in all actions for personal injuries, in which a justice of the peace has jurisdiction.

7. If an action, not for a personal injury, be brought in a court, which ought to have been brought before a justice, the court shall, if the plaintiff establish a claim, deduct from the debt or damages the whole costs incurred by the defendant, and give judgment for the balance, without any costs; or if the costs of the defendant equal or exceed the debt or damages, shall give judgment for the defendant either without costs, or for the excess of his costs, as the case may require. If the plaintiff fail, the court shall give judgment for the defendant for full costs.

8. An appeal shall lie from every decision of a justice of the peace to the most inferior court having jurisdiction at the place at which such justice lives or to such other court as may be designated for that purpose by law. No judgment of a justice of the peace shall be set aside for any error in form; but all appeals from justices shall be taken up by the court to which they are made, anew, and upon the merits, and such judgment given as the justice ought to have given.

9. A justice of the peace shall have the same power as a court in preserving order in his own presence, while engaged in his public duties, and also in punishing those who obstruct the execution of writs issued by him, or who disobey his summons, or refuse to perform the duties for the performance of which they are summoned. In all such cases he may issue writs of arrest, fine, and otherwise punish. But he shall issue no writ of arrest, on pretence of any provision contained in the second chapter of this title. And all persons imprisoned by him may, in the discretion of any court or judge, be discharged.

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## CHAPTER XXII.

### OF OFFICERS.

1. All writs issued by a court, unless in cases otherwise provided for by law, must be directed to the sheriff. But if the office of sheriff is vacant, or if the sheriff be a party to the cause, or otherwise interested, the writ may be directed to an officer, selected for the occasion by the court, called an elizor.

2. An elizor is to be considered as sheriff, in respect of all writs directed to him. When the office of sheriff is filled, or the interested sheriff goes out of office, the elizor shall hand over to the new sheriff all writs and other papers, and all money or other property in his hands as elizor, and the same proceeding may be had against him as against a sheriff under similar circumstances.

3. All writs issued by a justice of the peace, except executions, sales, and attachments, may be directed either to the sheriff or to a constable. Executions and attachments must be directed to the sheriff, unless the party prefer that the word 'lands' should be omitted, and the writ directed to a constable, which in that case may be done, but a constable shall not be authorized to seize or sell lands in execution. Writs of sale must be directed to the officer having

possession of the property. Writs of execution, returnable before a court, must be directed to the sheriff.

4. If the sheriff, as such, is entitled to the possession of any property, which is in the possession of his predecessor, or of an elizor, or of the representative of either, which the party in whose possession it is, refuses to deliver over, the court may, on motion, and being satisfied of the fact, issue a writ of possession, directed to an elizor, requiring him to put the sheriff in possession of such property.

5. Every late sheriff, elizor, or other person against whom such writ is issued, may give security, to be approved by the court, or some judge thereof, that he will produce the property mentioned in such writ of possession, whenever a writ of replevin is issued, if it be personal or movable property, and make oath that he does not believe the sheriff is, as such, entitled to the possession of the same; in which case the writ of possession shall be quashed, and the property returned to him. The sheriff may then maintain an action of replevin for such property, in which it shall be sufficient for him to show a right to the possession thereof as sheriff. If the property be real or fixed, no security need be given, but the party may file his affidavit, as above directed, and thereby put the sheriff to his ejectment, which he may maintain by averring in his complaint, and proving the facts which entitle him to the possession.

6. Every sheriff, clerk, elizor, trustee, constable or other ministerial officer, is liable to an action of damages, for any official misconduct.

7. If an elizor or trustee dies, or is removed, having property in his hands, the same proceedings may be had against him or his legal representative, as against a late sheriff or his legal representative.

8. Where judges, justices of the peace, or other officers, are judges of a particular court in rotation, those only whose turn it is to sit in court at any term, are to be considered as judges during such term. The word term is defined for the purposes of this section, in the forty-eighth section of the second chapter of this title.

## CHAPTER XXIII.

## OF THE WRIT OF HABEAS CORPUS.

The writ of habeas corpus is a writ directed to the sheriff, or other person, who may have the custody, legally or illegally, of any person, directing such sheriff, or other person, to have the body of the person, who is in custody before the court or judge named in the writ, for the purpose of enabling such court or judge to inquire into the cause of the confinement or detention of such person, and to discharge such person from such detention, confinement, or custody, if it should appear to be proper so to do. The person to whom the writ is directed is called the defendant; the person whose body is directed to be produced is called the prisoner.

2. The form of the writ of habeas corpus shall be the following; but changes may be made in the gender and number of the pronouns, and such similar alterations as the circumstances of each case may render necessary or proper. Several persons may be included in one writ.

Maryland in Liberia, to [*insert the name of the defendant*] Greeting:

You are hereby commanded to have the body of [*insert the name of the prisoner*] now in your custody, before [*insert the name of the court or judge, and, if the latter, his official style*] on [*insert the time*] at [*insert the place*] together with this writ, and the day and cause of his detention, in order that he may be discharged from detention, confinement, and custody, if it shall appear to the said court [*or judge*] proper that he should be so discharged. Hereof fail not at your peril. Given under my hand [*and the seal of the court*] this [*insert the date.*] Issued in duplicate.

The writ shall be signed by the clerk of the court, or by the judge who issues it, with his name and official style, and the clerk shall, if he sign it, annex the seal of the court, if there be one. If there be no seal annexed to the writ, the words '*and the seal of the court*' shall be omitted. If the court have no seal, the certificate required by the third section of the ninth chapter of this title is hereby dispensed with. No writ of habeas corpus shall ever be quashed for any defect of form, nor shall any advantage ever be taken or allowed, in any way, on account of any such defect.

3. Every court of record, having any other jurisdiction what-



ever, either original or appellate, shall have the power of issuing writs of habeas corpus in all cases whatever; and every judge of any such court shall have the like power.

4. The writ of habeas corpus shall be issued as of right, whenever any person shall apply for the same, and shall satisfy the court or judge that the person to be named in such writ as prisoner is in confinement, detention, or custody; unless such court or judge shall know, either from the proceedings had upon a then recent writ, or from other judicial proceedings, within the personal knowledge of such court or judge, that such confinement, detention, or custody, is legal.

5. If the majority of any court refuse a writ of habeas corpus, the minority may, notwithstanding, grant the same, and one judge may issue a writ which has been refused by another.

6. An action of damages shall lie against every judge refusing a writ of habeas corpus, either at the suit of the party applying for the same, or of the party whose name was wished to be inserted in the writ as prisoner, but not of both. In such action, it shall be only necessary for the plaintiff to allege and prove that the party whose name was wished to be inserted in the writ as prisoner, was actually in confinement, detention, or custody, and that the judge refused the writ, or consented to the refusal by the court, after reasonable proof of that fact had been made. The defendant in such action can then only defend himself by alleging and proving the existence of such judicial proceedings as might justify his conduct under the last section. In every such action the jury shall be the exclusive judges of what is reasonable evidence of detention, confinement, or custody.

7. Every writ of habeas corpus shall be issued in duplicate. It shall be served by leaving one copy with the person to whom it is directed. This may be done by any person. The duplicate copy shall be returned to the court or judge issuing the same, with an affidavit of the service annexed.

8. It shall be the duty of every person upon whom a writ of habeas corpus shall have been served, to attend at the time and place named in the writ, if he shall have had reasonable notice thereof, and then and there to return to the court or judge named in the writ, or to any other judge who may be there attending for the purpose, the writ, with an explanation annexed, of the causes of the detention of the prisoner; and also to deliver to such court or judge the originals of all documents relied upon as justifying such deten-

tion; and to produce before him the body of the prisoner. But if he shall make oath, before such court or judge, that the person named in the writ of habeas corpus is not in his custody or power, and was not so at the time of the service upon him of the writ, he shall be excused for not producing the body of such person, unless the court or judge shall, on hearing, order him to produce it, in which case it shall be his duty so to do.

9. It shall be the duty of the court or judge before whom a writ of habeas corpus shall have been made returnable, having reasonable notice of the fact, to attend at the place appointed for the return of the same, or procure some other judge to do so, for the purpose of receiving the same; and it shall be the duty of any judge who shall agree to act for another judge in such a case, to keep his appointment; and an action shall be maintainable against any judge neglecting his duty in this matter.

10. If any writ of habeas corpus is not returned at the time and place specified therein, it shall be the duty of the court or judge, upon the production of the duplicate copy, and of sufficient evidence that it has been served so as to give reasonable notice to the party to whom it is directed, so as to enable him to comply with the same, of which the said court or judge shall have full power to inquire and decide, to issue a writ of arrest against the person to whom such writ was directed, and when brought before such court or judge, to punish him by fine, imprisonment, or otherwise; and also to compel him to produce the body of the prisoner. It shall also be the duty of such court or judge to issue a compulsory writ of habeas corpus, directed to the sheriff, or to an elizor, as such court or judge may think proper.

11. If the court or judge shall think that the person to whom the writ of habeas corpus shall have been directed had not reasonable notice of the time and place of the return, such court or judge shall appoint another time for the return, at the same place, and shall direct what notice thereof shall be given to the said person; and the said person, having had such notice, shall be bound to perform such duties as he would have been bound to perform, if he had appeared at the first time of return, and under precisely the same penalties.

12. Every court or judge, to whom an application is made for a writ of habeas corpus, or before whom it is made returnable, shall have full power and authority, either at the time of such application or return, or any other time, to inquire, by all the ways and means in the power of such court or judge, of the situation of the

prisoner, and the probable intentions of the intended defendant; and may, in the exercise of a sound discretion, issue a compulsory writ of habeas corpus, if such court or judge shall think proper so to do, and may direct the same either to the sheriff or an elizor.

13. The form of a compulsory writ of habeas corpus shall be as follows; but all the regulations of the second section, with respect to the ordinary writ of habeas corpus, shall apply to it, except that it need not be issued in duplicate.

Maryland in Liberia, to [*insert the name and style of the sheriff or elizor*] greeting :

You are hereby commanded to compel [*insert the name of the defendant*] to have the body of [*insert the name of the prisoner*] now in his custody, before [*insert the name of the court or judge, and, if the latter, his official style*] on [*insert the time*] at [*insert the place*] together with the day and cause of his detention, in order that he may be discharged from detention, confinement, and custody, if it shall appear to the said court [*or judge*] proper that he should be so discharged. And if the said [*insert the name of the defendant*] shall refuse so to do, you are to bring the bodies both of the said [*insert the name of the defendant*] and of the said [*insert the name of the prisoner*] before the said court, [*or judge*] at the time and place aforesaid. And for the better execution of this writ, you are authorized to use force, and to require the aid of all good citizens. You are also required to make known to the said court [*or judge*] how you shall execute this writ, and to return the same at the time and place aforesaid. Given under my hand [*and the seal of the court*] this [*insert the date*].

14. It shall be the duty of every male above the age of sixteen years, to give aid and assistance to a sheriff or elizor, in executing a compulsory writ of habeas corpus, whenever he shall be required so to do. And it shall be the duty of such sheriff or elizor to provide a sufficient force, to secure the execution of every such writ.

15. Whenever the defendant and prisoner, in pursuance of any writ of habeas corpus, appear before any court or judge, it shall be lawful for such court or judge to examine the defendant without oath, and the prisoner and any other person or persons, upon oath or affirmation, as the case may require. And if it shall appear proper so to do, such court or judge may either discharge, bail, or remand the prisoner, and may also commit, or otherwise secure the defendant, to answer for slave trading, or any other crime, offence, or injury, of which said court or judge may suspect him to be guilty.

16. An action of damages shall lie against any sheriff or elizor or defendant, who shall make a false return, to any writ issued in pursuance of any provision of this chapter, and against any person who shall do any act tending to obstruct or defeat the full effect of any writ of habeas corpus, whether common or compulsory, and against any person who shall omit to do any act, which he shall have been bound by law, or promised to do, and which, if not omitted, would have tended to promote the execution or effect of any writ of habeas corpus, common or compulsory. Such action may be maintained, either by the person applying for the writ of habeas corpus, or any person intended to be benefited thereby.

17. If any person shall violate any duty imposed upon him by this chapter, an action of damages may be maintained against him, either by the person applying for the writ of habeas corpus, or by any person intended to be benefited thereby.

18. In any action given by any provision of this chapter, it shall be lawful for the court, in which such action is brought, or any judge thereof, to issue a writ of arrest without requiring the oath or other proceedings, required in other cases, and such writ of arrest, and all writs of arrest given by this chapter, may issue against a person privileged under the twenty-ninth section of the second chapter. All such writs of arrest shall be discretionary with the court or judge; who may require the case to take the ordinary course, and even then refuse the writ of arrest as in other cases.

19. No jury shall give less than three hundred dollars damages in any action grounded on this chapter, except for an omission, nor in that case against a judge, sheriff or elizor or other public officer, or any defendant named in any writ of habeas corpus.

20. If several actions be brought by several parties, against the same person, for the same act or omission, and the jury on the trial of the first tried action, shall have given a verdict for three hundred dollars or more, the jury in the subsequent actions may give as low damages, as they may think proper; notwithstanding the provisions of the last section.

21. Whenever an idiot or insane person shall be arrested upon any writ, either of arrest, execution, or other whatsoever; such idiot or insane person may be brought either by or without a writ of habeas corpus, before any court or judge, and such court or judge shall thereupon inquire by the best ways or means in the power of such court or judge, taking the aid of a jury, if necessary, into all the facts and circumstances of the matter, and if the fact of idiocy or

insanity shall be established, shall discharge such idiot or insane person from custody, under such writ, and may make such disposition of the person of such idiot or insane person, as may be most expedient under all the circumstances, with reference to the safety and comfort of such idiot or insane person, and may also make such disposition of the property of the idiot or insane person, as may be just, with regard to the interests of his creditors, and his or her own comfort; and may declare such idiot or insane person insolvent, and may call a meeting to appoint a trustee, and make an order, transferring to such trustee the property of such idiot or insane person. Such a trustee shall have the same rights and duties, with trustees appointed under the provisions of the nineteenth chapter.

22. Whenever it shall be alleged, that any person brought before any court or judge, by virtue of any writ of habeas corpus, is an idiot or insane person, although such person may not have been arrested upon any writ whatever, the court or judge may proceed in the manner authorized in the last section, and do all acts thereby directed or authorized, in order to ascertain the fact, and may make such disposition of the person and property of such person, as may be proper with reference to his or her safety and comfort, and the security of his or her property, and may appoint a trustee to take charge of the property, and require security of such trustee, and shall notify that fact to the tribunal before which administrators and guardians account, who shall call such trustee to account before them, and shall treat such trustee, in all respects as a guardian of an infant. Such a trustee shall as much as possible be likened to a guardian, in his duties, rights, remedies and liabilities, in the manner of proceeding against him, and the cause for which proceedings may be had, and in all other respects whatever.

23. A writ of habeas corpus may be always issued by any court or judge, as a foundation for the proceedings, authorized by the last section, on an affidavit that any person is believed to be an idiot or insane, and may be directed to the person in whose care such alleged idiot or insane person may be, without any evidence or allegation that such idiot or insane person is confined.

## A DECLARATORY ORDINANCE,

TOUCHING THE SOVEREIGNTY OF MARYLAND IN LIBERIA.

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WHEREAS the Maryland State Colonization Society was formed for the purpose of founding on the Western Coast of Africa a free, independent, and sovereign Republic, to be inhabited by persons of color—emigrants from the United States—who, from their peculiar condition and circumstances, cannot be considered as owing to the American Governments any more than a local allegiance, determinable upon their withdrawal from the territory of said Governments: AND WHEREAS, in pursuance of the said purpose, the said Society has purchased of the native kings and proprietors as well the sovereignty as the property of the territory now known by the name of Maryland in Liberia, and has settled therein a body of persons of the description aforesaid, who are now living there under a regular and organized Government, the principles of which are set out in a constitution enacted on the 22nd day of November, 1833, which said constitution has been adopted by the emigrants to the said territory, by going into the said territory, to live under its provisions, and by signing a declaration to support the same: AND WHEREAS the said constitution for the present vests in the said Society certain Legislative powers: AND WHEREAS the said Society have proceeded under those powers to organize the Government which now exists for the said territory, and which has been acknowledged and submitted to by all the residents in the said territory: AND WHEREAS it appears from the foregoing facts that the said Government is as legitimate, sovereign, and independent as any in the world, neither the United States, nor any one of them, claiming or exercising any authority within the said territory: AND WHEREAS it is proper that all persons visiting or settling in the said territory should understand distinctly the position in which they stand with relation to the said Government: therefore,

*Be it enacted and ordained, and it is hereby declared by the Maryland State Colonization Society, That the Government now subsist-*

ing in the territory called Maryland in Liberia, agreeably to the constitution of 1833, is, and of right ought to be, sovereign and independent of all authority not provided in that instrument, and the said constitution, and the laws, ordinances, and treaties, made under its authority, are the supreme law of the land, and that it is the duty of all persons who now are or hereafter may be within the said territory to obey and conform to the same; and of all persons holding offices under the said constitution or laws, to enforce obedience thereto from all persons whatever, who may be within the said territory for any purpose, or upon any pretext whatever, without any respect to persons.

*And be it further enacted, ordained, and declared,* That all free colored emigrants, from the United States, who now are or hereafter may be settled in the territory called Maryland in Liberia, and all persons whatsoever, born in the said territory, owe allegiance to the Government of Maryland in Liberia, and to no other Government whatsoever.

*And be it further enacted, ordained, and declared,* That all other persons who now are or hereafter may be within the said territory, on any pretext or purpose whatever, owe, during their residence within the said territory, a local and temporary allegiance to the said Government, by which is to be understood obedience to the laws during their residence.

*And be it further enacted, ordained, and declared,* That in case any enlargement or addition shall at any time hereafter be made of or to the territory of Maryland in Liberia, this and all other laws of the said Government shall immediately, by their own proper vigor, be extended to and apply within such enlargement or addition.

*And be it further enacted, ordained, and declared,* That nothing in this ordinance shall be construed to alter, affect, or extend to the relations which practically exist between the Government aforesaid and the native Africans, not of American descent, resident within the said territory; or to curtail the authority practically exercised over said Africans, by their own kings and other authorities, leaving the question of right as to such authority entirely open and unaffected by this ordinance. So that the relations of said Africans to each other and to the Government and citizens of Maryland in Liberia, shall remain in all respects the same as they were before the passage of this ordinance, both in right and in fact, (*de jure et de facto.*)

*And be it further enacted, ordained, and declared,* That all free colored persons, emigrants from the United States of America, who

shall have subscribed the aforesaid declaration to support the aforesaid constitution, and all natives of Africa who shall be permitted by the Governor and Council to subscribe the said declaration, and shall actually subscribe the same, and all descendants of either of the said classes, born in the territory aforesaid, shall be deemed citizens of Maryland in Liberia.

*And be it further enacted, ordained, and declared,* That the Maryland State Colonization Society hold all their rights, both of Government and property, in Africa in trust, to be administered according to the best judgment of said Society, for the benefit of those persons who now are, or hereafter may be, citizens of Maryland in Liberia, in their collective capacity, and will so continue to hold and administer the same until they shall withdraw their agents, and yield the Government wholly into the hands of the people of the said territory.

*And be it further declared,* That no person or persons in America has, or have, or ought to have, any beneficial interest in the Government or property aforesaid, but that the same is, and of right ought to be, held and administered exclusively for the purposes aforesaid.



## AN ORDINANCE

FOR THE BETTER MAINTENANCE OF THE AUTHORITY OF THE  
GOVERNMENT OF MARYLAND IN LIBERIA.

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*Be it enacted and ordained by the Maryland State Colonization Society,* That it shall be the duty of all white persons above the age of fourteen years, who shall hereafter arrive in the territory called Maryland in Liberia, except the commanders, officers, and other persons attached to vessels of war, and the masters, supercargoes, officers, and seamen of merchant vessels, and such passengers on board such merchant vessels as merely touch or call in the course of a voyage, and do not intend to remain in the territory more than ten days, to report themselves to the Colonial Secretary as soon as conveniently may be after their arrival, and to sign, in his office and presence, an engagement of the tenor and effect following in a book to be kept for that purpose, that is to say:

MARYLAND IN LIBERIA, TO WIT:

KNOW ALL MEN that we whose names are hereunto subscribed do declare and acknowledge that the Government of the territory known by the name of Maryland in Liberia, is rightfully vested in the Maryland State Colonization Society, and in the agents and officers appointed by them, or otherwise, under the authority of the constitution of Maryland in Liberia, adopted on the twenty-second day of November in the year of our Lord one thousand eight hundred and thirty-three, and we do, and each of us for himself or herself doth, declare and solemnly promise that during our stay in the said territory, respectively, we will submit ourselves to the said constitution, and the laws made in pursuance thereof, which constitution and laws we acknowledge to be the laws of the land; and we do further engage and solemnly promise that during our stay in the said territory, we will conduct ourselves respectfully towards the said Government, and peaceably towards the citizens and inhabitants of the said territory.

MARYLAND IN LIBERIA, TO WIT:

do hereby bind ourselves to Maryland in Liberia that the above named \_\_\_\_\_ shall depart from the territory called Maryland in Liberia, at the first convenient opportunity, and at farthest before the \_\_\_\_\_ day of \_\_\_\_\_ next, unless licensed to remain longer by the Governor upon new security given, and also that the said \_\_\_\_\_ during (his or her) stay in the said territory, shall in all respects, obey the laws of the land under penalty of \_\_\_\_\_ dollars to be paid by us, or any of us—

*And be it enacted and ordained,* That the blanks in the above mentioned bond shall be filled up at the discretion of the Governor, and the bond shall be forfeited, and the whole penalty may be recovered, in case the party for whom the security is given shall be convicted of any offence against the laws, or shall apply for redress of any injury he or she may have received, to any power other than the Government of Maryland in Liberia, the offenders being within the jurisdiction of the said Government, or if such person shall not leave the Colony within the time limited for that purpose.

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*And be it enacted and ordained,* That any person under such bond may be released from the same, and the bond cancelled, whenever such person shall have subscribed the engagement required by the first section.

*And be it enacted and ordained,* That if any person arrested under the authority of this act shall refuse to subscribe the engagement in the first section mentioned, and to give the bond in the second section mentioned, it shall be the duty of the Governor to cause such person to be kept in close confinement until an opportunity shall occur of sending him or her out of the Colony, and whenever such an opportunity shall occur, it shall be the duty of the Governor so to send such person out of the Colony.

*And be it enacted and ordained,* That it shall be the duty of every coloured person, children under fourteen years of age excepted, who may arrive in the Colony called Maryland in Liberia, with the intention of remaining therein more than one calendar month, to repair, as soon as conveniently may be after his or her arrival, to the office of the Colonial Secretary, and declare his or her election to be regarded as a citizen of the Colony, or as a sojourner therein, and every such person declaring his or her election to become a citizen shall immediately subscribe the constitution, agreeably to the provisions of that instrument; and every person declaring his or her election to be regarded as a sojourner, shall subscribe the engagement in the first section mentioned—but may, at any time thereafter, become a citizen by subscribing the constitution.

*And be it enacted and ordained,* That if any coloured person shall remain one calendar month in the colony, without complying with the provisions of the last preceding section, he or she shall be arrested, and taken to the office of the colonial secretary, and required to subscribe the engagement in the first section mentioned; and he or she shall be dealt with in the manner hereinbefore provided and directed in the case of white persons refusing to subscribe the said engagement.

*And be it enacted and ordained,* That the fact that any person has actually remained within the colony for any period of time, shall be deemed and taken to be conclusive evidence that such person arrived in the colony with the intention of remaining therein during such period, so far only as relates to the provisions of this ordinance.

*And be it enacted and ordained,* That whenever it shall be necessary to send any person out of the colony, under the provisions of

this ordinance, it shall be lawful for the Governor to pay the expense thereof out of the public funds, and to issue his warrant to the sheriff, directing him to levy the amount, for the use of the public, by the seizure and sale of the property of the person so sent out of the colony, in the form following, that is to say :

MARYLAND IN LIRERIA, TO WIT :

*To the Sheriff of*

You are hereby authorized and required to seize the property of \_\_\_\_\_, who is about to be sent out of the colony for refusing to acknowledge the laws thereof, and sell the same, for cash, to the highest bidder, or so much thereof as may be necessary to raise the sum of \_\_\_\_\_, being the sum expended in removing him, and pay the same, as soon as conveniently may be, to the Colonial Secretary : and for so doing this shall be your warrant.

*Governor of Maryland in Liberia.*

## AN ORDINANCE

TO RAISE A REVENUE FOR THE SUPPORT OF GOVERNMENT IN THE COLONY OF MARYLAND IN LIBERIA, AND FOR OTHER PURPOSES.

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*Be it enacted and ordained by the Maryland State Colonization Society,* That there shall be appointed by the Governor of Maryland in Liberia, from time to time, a public officer who shall be called Collector of the Revenue in Maryland in Liberia, and who shall hold his office during the pleasure of the Governor.

*And be it enacted and ordained,* That the said Collector shall have power to employ and appoint, to assist him in the execution of his office, such assistants and clerks as the Governor, for the time being, may deem necessary—every such appointment to be approved by the Governor, and all such assistants and clerks to hold their appointments during the joint pleasure of the Governor and Collector, and to be removable by either of them; but such assistants and clerks may be appointed for the purpose of discharging a specific duty.

*And be it enacted and ordained,* That all assistants and clerks appointed under the last section shall receive such daily compensation as the Governor and Council may from time to time direct, and shall be paid only for the days in which they shall actually be employed in the public service: when employed in superintending the removal of goods to the public warehouse, or from the same, unless such goods shall have paid duty, such compensation shall be paid by the owner of the goods, and in like manner when employed in any other service for the benefit of individuals; but when employed in superintending the removal of goods which have paid duty, or in any other service not specially beneficial to, or required by, some individual, it shall be paid out of the public revenue.

2. *And be it enacted and ordained,* That it shall be the duty of the Collector to keep an office in some place to be appointed by the Governor, and provided and furnished at the public expense, to be called the custom-house, and to attend there on such days and at

such hours as the Governor by fixed rules may appoint, but the said office shall never be opened or the said Collector obliged to attend there upon Sundays.

*And be it enacted and ordained,* That the said Collector shall have as his compensation a commission upon all moneys which he shall collect in the execution of his duty, which shall be fixed from time to time by the Governor and Council, and shall not be less than two nor more than five per cent., and shall also be entitled to twenty-five per cent. of all fines or forfeitures imposed for violations of the revenue laws, and notwithstanding such interest may be a witness in any proceeding for the enforcement of such fines and forfeitures.

*And be it enacted and ordained,* That it shall be the duty of every master or commanding officer of any ship or vessel, not a man-of-war, which shall come to an anchor within the waters of Maryland in Liberia, within twenty-four hours after anchoring, either to depart from the said waters or to report himself at the custom house, and there to make an entry, upon his solemn affirmation, of the name, class, nation and tonnage of such ship or vessel, her last port of departure, and the name of such master or commanding officer, and whether it is the intention of such master or commanding officer to trade or land any part of his cargo within the limits of Maryland in Liberia.

*And be it enacted and ordained,* That if any master or commanding officer shall not make such report and entry as is directed by the last section, or shall not make it in due time, or shall make any false entry, he shall forfeit and pay the sum of one hundred dollars, to be recovered in an action of debt in the name of Maryland in Liberia; and if he shall make any false entry as to the tonnage of his ship or vessel, he shall forfeit and pay in addition to the said sum of one hundred dollars, and in addition to the tonnage light-house duty hereinafter imposed, double the amount of the light-house duty which such ship or vessel ought to pay, to be recovered in like manner, and in the same or a separate action of debt, as the Collector may direct; and it shall be the duty of the Collector to cause all actions for offences against this or any other section of this law to be forthwith brought and promptly proceeded in, they being hereby placed under his charge and control, but he may nevertheless, with the consent of the Governor, commit the conduct of them to any other proper person, who shall receive such compensation out of the proceeds of the case as the Governor and Collector shall think proper to allow.

*And be it enacted and ordained,* That it shall be the duty of the master or commanding officer of every ship or vessel, at the time of making his entry as aforesaid, to pay to the Collector a light-house duty of eight cents for each ton; and if he shall neglect or refuse to do so, he shall forfeit and pay one hundred dollars, and double the amount of said light-house duty, to be recovered as aforesaid, and treble the amount of the proper light-house duty may be recovered of every master or commanding officer of every ship or vessel not entered according to law.

*\*And be it enacted and ordained,* That a duty of ten per centum on the invoice price shall be and is hereby imposed upon all goods, wares and merchandise, imported or landed in Maryland in Liberia, except such as are the property of emigrants from the United States of America, arriving in vessels owned, chartered or freighted by the said Society, and under its charge, and except such as are stored in the public stores of the custom-house in the manner hereinafter provided for.

*And be it enacted and ordained,* That no goods, wares or merchandise shall be landed within the territory of Maryland in Liberia without a permit from the Collector, to obtain which it shall be necessary to exhibit to the Collector an import entry in the form hereto annexed as schedule A,† in which shall be specified the marks and numbers of each package, the weight or measure of all goods in bulk, the value as per invoice of all goods upon which duty is to be paid, or which are to be stored in the custom-house stores, and the quantity of all goods free of duty; upon receipt of which import entry, and the making affirmation thereto before the Collector, and the payment of the prescribed duties, it shall be the duty of the Collector to issue permits for landing such goods, wares or merchandise in the proper form, according to those set out in schedules B, C and D.

*‡And be it enacted and ordained,* That every person making any false entry in such import entry, shall forfeit and pay one hundred dollars, and quadruple the amount of the duty of which it was attempted to defraud the government, to be recovered by action of debt as aforesaid.

*And be it enacted and ordained,* That all goods, wares and merchandise which shall be landed by virtue of any such permit, shall

\* This section is repealed.

† So much of this section as relates to schedule A is repealed.

‡ This section is repealed.

be landed under the personal inspection of an Assistant Collector, whose duty it shall be to see that they conform to the description and amount in the permit; and if the permit be to land them and deposit them in the custom-house stores, to see that they are so deposited, and that they do not enter into the consumption of the country.

*And be it enacted and ordained,* That the Collector shall have authority, whenever he shall think it necessary, to station an Assistant Collector on board of every ship or vessel within the waters of Maryland in Liberia, whose duty it shall be to see that the said ship or vessel, and all on board of her, conform in all respects to the revenue laws, and especially that no goods are landed without proper permits.

*And be it enacted and ordained,* That all goods, wares and merchandise, landed without a permit, shall be forfeited and may be seized by the Collector, condemned and sold; and that the Collector shall be entitled to twenty-five per cent. of the nett proceeds, the informer to twenty-five per cent., and the remainder shall be applied to the support of government.

*And be it enacted and ordained,* That every person concerned in the landing of any goods, wares and merchandise without a permit, shall forfeit and pay one hundred dollars, and double the value of the goods, wares and merchandise so landed, to be recovered by action of debt as aforesaid.

*And be it enacted and ordained,* That it shall be lawful for the Collector to grant permits for the landing of any goods, wares or merchandise whatever, to be stored in the public warehouse under the charge of the Collector; and such goods, wares or merchandise shall be subject to no charges except the actual expense of removing them from the ship or vessel to the warehouse, including the usual compensation to the Assistant Collector superintending such operation, and storage while such goods remain in the warehouse, at such reasonable rates as shall be fixed by the Governor and Council, not exceeding a fair compensation for the service actually rendered.

*And be it enacted and ordained,* That any person who may be the owner of any goods, wares or merchandise stored in the public warehouse under the authority of this act, shall be at liberty to remove the same, or any part thereof, upon paying the expenses due upon the goods so removed, and place the same on board any ship or vessel whatever, paying the expense of such removal, including



the usual compensation to the Assistant Collector superintending such removal.

*\*And be it enacted and ordained,* That it shall be lawful for any person who may be the owner of any goods, wares or merchandise stored in the public warehouse as aforesaid, to remove the same at his pleasure, by paying the expenses due upon the said goods so removed, and ten per centum duty upon the same.

*And be it enacted and ordained,* That if the Collector shall not receive punctual payment of the storage of any goods, wares or merchandise, or if any goods, wares or merchandise shall be in danger of perishing, it shall be lawful for the Governor to order the Collector by writing, under his hand, setting forth the reasons for the proceeding, to sell the same at public auction, or so much thereof as may be necessary to pay all charges on the whole parcel of goods, and the duty on the portion so sold.

*†And be it enacted and ordained,* That if the Collector shall suspect any fraud in any invoice, it shall be lawful for him to apply to the Governor, who shall appoint three suitable persons to appraise all the goods, wares, and merchandise, in such invoice, agreeably to the rates of selling the same in Maryland in Liberia, and if such appraisement shall exceed the invoice price, taking the whole invoice together, more than one hundred per centum, duties shall be calculated upon such appraisement, otherwise upon the invoice; and such appraisers shall be entitled to such reasonable compensation as the Governor and Council shall from time to time direct, to be paid out of the duties collected on such goods, but the Governor may in any case in which he may be satisfied that no fraud was intended, direct the duties to be calculated upon the invoice price.

*And be it enacted and ordained,* That it shall not be lawful to introduce into Maryland in Liberia, by land, any goods, wares, or merchandise, not the produce or manufacture of the continent of Africa, without making entry and obtaining permit, and paying duties in the same manner as if the same had been imported in a ship or vessel, and all such goods, wares, and merchandise, except as aforesaid, so introduced, shall be forfeited, and every person concerned in introducing such goods, shall forfeit and pay one hundred dollars, and double the value of the goods so introduced, to be recovered as aforesaid; and all the provisions and regulations of this ordinance shall apply to goods, wares, and merchandise introduced by land, in the same manner as if imported by sea.

\* This section is repealed, see page 120.

† This section is repealed.

*And be it enacted and ordained,* That it shall be the duty of the Collector, to seize all goods forfeited under any of the provisions of this ordinance, and for the purpose of enabling him to do so, he is hereby authorized and required, by writing, under his hand, to direct the sheriff to assist him therein, and summon to his aid all good citizens; and it shall be lawful in case of any goods, wares, or merchandise being wrongfully seized by the Collector, for the owner or owners thereof to institute an action of replevin against the Collector, in which it shall be lawful for the Collector to shew title to the goods in the government, by proving the violation of law, and consequent seizure.

*And be it enacted and ordained,* That whenever the Collector shall seize any goods, wares, or merchandise, under the provisions of this ordinance, he shall cause a list of the same to be set up in the custom-house, and at the door of the court-house, and if within ten days no writ of replevin shall be served upon him, the said goods shall be sold, and the purchasers shall have good title thereto, but the original owners may, if they think proper, try the same question in an action of debt, for money had and received, against the Collector, commenced within three months after the sale, during which time and during the pendency of such action, the Collector shall not be bound to pay over the proceeds of sale, and in case of a verdict and judgment against the Collector in any such action of replevin or debt, the costs shall be paid either by the Collector or by the public, as the court before whom the case is tried shall direct.

*And be it enacted and ordained,* That no person shall open a store or transact business as an importer, commission merchant, or wholesale merchant, without obtaining from the Collector a license so to do, the price of which shall be one hundred dollars per annum for an importer, commission merchant, and wholesale merchant, one license sufficing for the three occupations, and twenty-five dollars per annum for a retail store, and every person doing business without such license shall forfeit and pay ten dollars for each and every day, and it shall be the duty of the Collector to enforce payment of the said forfeiture by daily action of debt before a justice of the peace, who shall have jurisdiction thereof, but the provisions of this section shall not extend to persons dealing exclusively in African produce, or to females whose whole stock in trade shall not exceed one hundred dollars.

*And be it enacted and ordained,* That all actions of debt against the master or other officer of any ship or vessel, for any violation of this ordinance, may be enforced by attachment against such ship

or vessel, whether she belong in whole or in part to the defendant or not, or by any other lawful means whatever.

*And be it enacted and ordained,* That it shall be the duty of the Governor and Council to make all such provisions, rules, and regulations as may be necessary or expedient for effectually enforcing all the provisions of this ordinance, and he shall have the power to require or dispense with a bond from the Collector, conditioned for the faithful discharge of his duty as such officer, and shall also have power to fix the amount of the penalty of such bond.

*And be it enacted and ordained,* That the court of monthly sessions shall have jurisdiction in all matters growing out of the foregoing ordinance, except where it has been otherwise specially provided for.

[SCHEDULE A.]\*

IMPORT ENTRY.

MARYLAND IN LIBERIA.

ENTRY OF MERCHANDISE, Imported by — —, in the — from — 18—

Marks.	Numbers inclusive.	PACKAGES AND CONTENTS.	Quantity per invoice on Articles subject to duties	Articles not subject to duties.	Articles to be warehoused.

MARYLAND IN LIBERIA.

*Consignee, Importer, or Agent's Oath.*

I do solemnly and truly that the Invoice and Bill of Lading now presented by me to the Collector of Maryland in Liberia, are the true Invoice and Bill of Lading by me received, of all the Goods, Wares, and Merchandise, imported in the whereof is Master from for the account of any person whomsoever, for whom I am authorized to enter the same; that the Entry now delivered to the Collector, contains a just and true account of the said Goods, Wares, and Merchandise, according to the said Invoice and Bill of Lading; that nothing has been, on my part, nor to my knowledge, on the part of any other person, concealed or suppressed, whereby Maryland in Liberia may be defrauded of any part of the duty lawfully due on said Goods, Wares, and Merchandise; and that if, at any time hereafter, I discover any error in the said Invoice, or in the account now rendered of the said Goods, Wares, and Merchandise, I will immediately make the same known to the Collector of Maryland in Liberia. And I do further solemnly and truly that, to the best of my knowledge and belief, of the Goods, Wares, and Merchandise mentioned in the annexed Entry; that the Invoice now produced by me exhibits the actual cost or fair market value, at the time or times when and where of the said Goods, Wares, and Merchandise, all the charges thereon, and no other or different discount, bounty or drawback, but such as has been actually allowed on the same, this day of

Sworn before

COLLECTOR.

\* This form has been abolished.

## [SCHEDULE B.]

MARYLAND IN LIBERIA,

18

I CERTIFY, That — ha paid the duties on the merchandise contained in the following Packages, in conformity to the entry thereof of this date, which merchandise was imported in the —

PERMISSION is accordingly hereby granted to — the same, viz:

Marks.	Numbers.	PACKAGES AND CONTENTS.	Articles to be Weighed, Guaged or Measured.

## [SCHEDULE C.]

MARYLAND IN LIBERIA,

18

I CERTIFY, That the merchandise contained in the following Packages, in conformity to the entry thereof of this date, which merchandise was imported in the — is to be stored in the public stores.

PERMISSION is accordingly hereby granted to — the same, viz:

Marks.	Numbers.	PACKAGES AND CONTENTS.	Articles to be Weighed, Guaged or Measured.

## [SCHEDULE D.]

MARYLAND IN LIBERIA,

16

I CERTIFY, That the merchandise contained in the following Packages, in conformity to the entry thereof of this date, which merchandise was imported in the — is free of duty.

PERMISSION is accordingly hereby granted to — the same, viz:

Marks.	Numbers.	PACKAGES AND CONTENTS.	Articles to be Weighed, Guaged or Measured.

## THE FIRST SUPPLEMENT TO AN ORDINANCE,

*Entitled an Ordinance to raise a Revenue for the support of government in the Colony of Maryland in Liberia, and for other purposes.*

*\*Be it enacted and ordained, by the Maryland State Colonization Society, That from and after the promulgation of this ordinance in Maryland in Liberia, the duty of ten per centum, on the invoice price upon all Goods, Wares, and Merchandise, imported or landed in Maryland in Liberia, imposed by the ordinance to which this is a supplement, be and the same is hereby suspended until the first day of January, in the year eighteen hundred and forty-seven, the duty under the said ordinance to which this is a supplement, shall in lieu of the said ten per centum be five per centum on the invoice price; and that, from and after the date last mentioned, and until the first day of January, eighteen hundred and fifty, the duty shall be seven and a half per centum on the invoice price, and that, from and after the date last mentioned, it shall be ten per cent. on the invoice price as provided in the said original ordinance.*

*SECTION 2. And be it enacted, That, instead of the light-house duty of eight cents per ton, imposed by the said ordinance to which this is a supplement, the light-house duty shall, from and after the promulgation of this ordinance in Maryland in Liberia, be four cents per ton on all ships and vessels making entry at the custom-house in Maryland in Liberia, with the exceptions in the said original ordinance mentioned.*

*And be it enacted, That the Governor and Council of Maryland in Liberia, be and they are hereby authorized in their discretion, and from time to time, to change the said light-house duty, provided that the same shall not be reduced below four cents per ton as herein provided.*

*\*This section is repealed, see next page.*

## A SUPPLEMENT TO AN ORDINANCE,

*Entitled an Ordinance to raise a Revenue for the support of government  
in the Colony of Maryland in Liberia.*

*Be it enacted and ordained, by the Maryland State Colonization Society,* That there shall be, and are hereby imposed upon all Goods, Wares, and Merchandise imported, landed, or otherwise brought into the Colony of Maryland in Liberia, instead of the duty imposed by the ordinance to which this is a supplement, specific duties, agreeable to the schedule hereunto annexed marked schedule E, and that such duties be and are hereby imposed upon all such Goods, Wares, and Merchandise imported, landed, or otherwise brought into the said Colony of Maryland in Liberia, except such as are the property of emigrants from the United States of America, and brought with them in vessels owned, chartered, or freighted by this society, and under its charge, and except such as are stored in the public stores of the custom-house, in the manner provided for in the ordinance to which this is a supplement.

*And be it enacted and ordained,* That it shall be lawful for the Governor and Council of Maryland in Liberia, from time to time, to impose specific duties upon any articles not enumerated in the said schedule E, and that no articles not enumerated in the said schedule, and not entitled to be admitted free of duty, shall be permitted to be imported, landed, or otherwise brought into the said Colony, except for the purpose of being placed in the public stores, under the provisions of the ordinance to which this is a supplement, until the Governor and Council shall have imposed a specific duty upon the same; and, in imposing such specific duty, it shall be the duty of the Governor and Council, to fix upon one, which shall as nearly as they can ascertain, be one-twentieth of the average invoice value of the best quality of the article; and having once settled the amount of any such duty, they shall have no right to diminish the same; provided, that such duties shall only continue in force until this Society shall legislate upon the subject.

*And be it enacted and ordained,* That no Goods, Wares, or Merchandise, shall be imported, landed, or otherwise brought within the territory of Maryland in Liberia, without a permit from the Collector, to obtain which it shall be necessary to exhibit to the

Collector an import entry in the form hereunto annexed as schedule F, in which shall be specified the marks and numbers of each package, the weight or measure of all goods in bulk, and the quantity of all goods free of duty; upon receipt of which import entry, and the making affirmation thereto, before the Collector, and the payment of the prescribed duties, it shall be the duty of the Collector to issue permits for landing such Goods, Wares, and Merchandise, in the proper form, according to those set out in schedules B, C and D, annexed to the ordinance to which this is a supplement.

*And be it enacted and ordained,* That all the regulations, provisions, penalties, and clauses in the ordinance to which this is a supplement, not hereby repealed, shall apply to the duties hereby imposed, or to be imposed, by the Governor and Council, and to the Goods, Wares, and Merchandise upon which such duties are imposed; and to the import entry in the form set out in schedule F, hereunto annexed, as fully, and in the same manner, as by the said ordinances, they apply to the duty thereby imposed, or to the goods liable to such duties, or to the import entry in the form set out in schedule A, annexed to the said ordinance: but the said form of import entry shall be no longer used, and all persons shall have the same rights, and be liable to the same obligations with respect to such duties, Goods, Wares, Merchandise, and import entry, as they would have had, or been liable to, if this ordinance had not passed, except so far as relates to the amount of the duties, and the form of the import entries.

*And be it enacted and ordained,* That every person making any false entries in any import entry, shall forfeit and pay one hundred dollars, and quadruple the amount of the duty of which it was attempted to defraud the government, to be recovered by action of debt, in the manner pointed out for the recovery of similar penalties in the ordinance to which this is a supplement.

*And be it enacted and ordained,* That it shall be lawful for any person who may be the owner of any Goods, Wares, or Merchandise stored in the public warehouse, under the provision of the ordinance to which this is a supplement, to remove the same at his pleasure, upon payment of the expenses due upon the said goods so removed, at the time of removal, and the lawful duty upon the same agreeably to the rates in force at the said time.

*And be it enacted and ordained,* That the ninth, tenth, eleventh, eighteenth and twentieth sections of the ordinance, and all other

laws regulating the rates of duties payable in the Colony of Maryland in Liberia, to which this is a supplement, shall be, and are hereby repealed.

*Be it enacted and ordained,* That this ordinance shall go into effect from and after its promulgation by the Governor in the Colony of Maryland in Liberia.

## [SCHEDULE E.]

A schedule of the duties to be paid upon Goods, Wares, and Merchandise imported, landed, or brought into the Colony of Maryland in Liberia, referred to in the ordinance entitled "A Supplement to an Ordinance entitled an Ordinance to raise a Revenue for the support of government in the Colony of Maryland in Liberia," as schedule E.

Tobacco, . . . . .	\$ 0 25	per 100 lbs.
Powder, . . . . .	10	" "
Bar Iron, . . . . .	2 50	" Ton.
Muskets, . . . . .	12½	each.
Iron Castings, . . . . .	2 50	per ton.
Flour, . . . . .	25	" barrel.
Corn Meal, . . . . .	15	" "
Bread, . . . . .	13	" "
Biscuits of all kinds, . . . . .	15	" 100 lbs.
Salted Meats, . . . . .	50	" 200 "
Bacon of all sorts, . . . . .	30	" 100 "
Mackerel, No. 1 & 2, . . . . .	50	" barrel.
" " 3, . . . . .	25	" "
Herrings, . . . . .	15	" "
Codfish and other . . . . .	15	" "
Dried salted Fish, . . . . .	15	" 100 lbs.
Butter, . . . . .	60	" "
Cheese, Pine Apple, . . . . .	60	" "
Cheese, other, . . . . .	30	" "
Lard, . . . . .	35	" "
Soap, . . . . .	25	" "
Candles, . . . . .	1 50	" "
Brown Sugar, . . . . .	35	" "
Loaf " . . . . .	60	" "
Molasses, . . . . .	1 30	" 100 gals.
Coffee, . . . . .	40	" 100 lbs.
Tea of all sorts, . . . . .	3 00	" "



Wine, . . . . .	\$0 5	per gallon.
Porter and Ale, . . . . .	10	" doz. bottles.
Brown and Bleached Shirtings $\frac{3}{4}$ yd. wide,	30	" 100 yds.
" " " cotton drillings $\frac{3}{4}$ wide,	40	" "
" " " linen shirtings " "	1 25	" "
" " " cotton drillings 4-4 "	60	" "
Furniture Check under 4-4 wide,	50	" "
Bleached Linen Shirtings 4-4 wide,	2 50	" "
Furniture Check over 4-4 wide,	60	" "
Check'd Cotton Hdkfs, 3-4 "	4	" doz.
" " " 4-4 " . . .	8	" "
Blue bft, per piece, . . . . .	10	" 18 yds.
Satin stripe, " . . . . .	10	" "
Tom Coffee Handkf. per piece, . . . . .	6	" "
Glassgow Danes " . . . . .	5	" "
English Romuls " . . . . .	5	" "
American Fancy Prints " . . . . .	62½	" 100 yds.
" Blue " Merrimack, . . . . .	50	" "
Black Silk Goods 4-4 wide & over,	7½	" "
" " " under 4-4 wide, . . . . .	5	" "
Women's Shoes, . . . . .	2	" pair.
Men's " common, . . . . .	5	" "
" " Fine Calfskin, . . . . .	10	" "
Boots, common, . . . . .	10	" "
" Fine Calfskin, . . . . .	20	" "
Hats, Silk or Napt, common, . . . . .	5	each.
" Fur, superior, . . . . .	15	"
Umbrellas, Cotton for Trade, . . . . .	2	"
" " 30 inches, . . . . .	5	"
" Silk, . . . . .	20	"

## [SCHEDULE F.]

## MARYLAND IN LIBERIA.

ENTRY OF MERCHANDISE, Imported by — —, in the — from—18—

Marks.	Numbers inclusive.	PACKAGES AND CONTENTS.	Quantity of articles sub- ject to duty.	Quantity of free articles.	Quantity of articles to be stored.

## MARYLAND IN LIBERIA.

*Consignee, Importer, or Agent's Oath.*

I           do solemnly and truly           that the Entry now delivered to the Collector contains a full and true account of the Goods, Wares, and Merchandise imported in the           which I desire to import into, or land in the Colony of Maryland in Liberia; that nothing has been on my part, or to my knowledge, on the part of any other person, concealed or suppressed, whereby Maryland in Liberia may be defrauded of any part of the duty lawfully due on such Goods, Wares, and Merchandise, and that if at any time hereafter, I discover any error in the account rendered of the said Goods, Wares, and Merchandise, I will immediately make the same known to the Collector of Maryland in Liberia.

Dated this       day of

*Suorn before*

COLLECTOR.

## AN ORDINANCE

### FOR THE BETTER REGULATION OF PROPERTY IN THE COLONY OF MARYLAND IN LIBERIA.

*Be it enacted and ordained, by the Maryland State Colonization Society,* That the following definitions, principles and rules, shall have the force of law in the Colony of Maryland in Liberia.

1. Property is the dominion which man enjoys over the inferior animals, and inanimate things, by virtue whereof, the possession and use of such things, are allotted to one or another person. In another sense, property is used for the things themselves so allotted, and in this last sense, property is either real or personal.

2. Real property consists first, of land; second, of all vegetables, so long as they are growing in the soil, except only such vegetables cultivated by the art and industry of man, as are annually planted or sown; third, of all buildings or other improvements which are so fastened to the soil that they cannot be removed without breaking up or digging holes in the soil, or prostrating, or taking down the building or other improvement, and of every thing which is so fastened to such house or other improvement, that it cannot be removed without injury either to itself or to the house or other thing to which it is fastened; fourth, houses built for the habitation of man, and fences for the protection of cultivated grounds, although not fastened to the soil, and every thing which is fastened to such houses in the manner above mentioned; fifth, all deeds and writings touching the title to real estate.

3. Personal property consists of first, domestic and other tame animals, and wild animals in a state of confinement; second, of all vegetables cultivated by the art and industry of man, which are sown or planted annually, although still growing in the soil; third, of all moveables and other things which are capable of being considered as property, and are not declared to be real property in the last section.

4. Real property becomes personal, if vegetables, or fixtures fastened to the soil, or to a house or other improvement, the moment it is completely severed from the soil, or the house or other improvement; if a house, not fastened to the soil, the moment the

house has been moved an inch from the spot it occupied, with intent to remove it off the lot or parcel of land to which it has heretofore been attached; or a fence not fastened to the soil, each portion thereof as it is separated from the rest, and the whole, as soon as the fence has been designedly removed by the owner so far that it cannot answer the purpose of protecting the grounds it was intended to protect; if mineral substances or portions of the soil, as soon as they are removed from their original place in the soil, and laid in a heap on its surface. But no wrongful act can change real property into personal, unless where there has arisen a natural impossibility of restoring the connexion between the real property and the thing severed.

5. It is the same crime of theft or stealing to sever real property in growing vegetables from the soil, and appropriate it to the use of any person other than the owner, or to steal deeds or writings touching the title to real estate, as it would be to steal under similar circumstances any description of personal property of the same value.

6. Personal property becomes real whenever it is so fixed or fastened to the soil, or to any building or improvement which is real property, that it cannot be removed without digging up the soil or injuring the thing to be removed, or that to which it is fastened, or whenever it becomes part of a house intended for the habitation of man, or of a fence for the protection of cultivated grounds, or grounds intended to be cultivated, although the house or fence may not yet be completed. But no wrongful act can convert personal property into real.

7. Title is the right by which any particular person claims or enjoys any particular piece of property.

8. The original title to land and other real estate, the produce thereof is in the Maryland State Colonization Society, and will so continue until they withdraw their Agents from the Colony, it will then pass to the public or government of Maryland in Liberia.

9. The original title to land or real estate, can only be divested out of the society or government, by a deed duly signed by the authorized agent of the society or government, or by twenty years undisturbed possession and cultivation of the land. Such possession and cultivation can always be explained and done away by shewing that the party possessed the property conditionally or under any agreement with the society or government, and that the condition has not been complied with, or that under the agreement the said party so possessing the same is no longer entitled thereto.

10. A deed is an instrument of writing, intended to convey real property, and so worded as to describe and identify the land or other real property to be conveyed, and to express the intention of the person making the deed to convey such property, signed and delivered by the person making the deed; and all deeds except those from the agents of the society or government, as such, must be acknowledged as hereinafter directed, and recorded, before they take effect. Deeds are void unless the party signing them is twenty-one years of age, and able to make a contract, except in the case of married women hereinafter provided for.

11. The title to real property can only be transmitted from one person to another during the life of its owner by deed, signed, delivered and acknowledged as above directed by the party grantor or his authorized agent. The party conveying in a deed is called grantor, the party receiving grantee.

12. The Agent of the Maryland State Colonization Society, who has the title of Governor, and during the vacancy of that office, the assistant-agent, appointed by the said society, shall be the agents of the said society to execute all deeds, and sufficiently so made by their general commissions, of which all courts must take notice. The agents of private persons to execute deeds, must be appointed by an instrument of writing executed, acknowledged and recorded in the same manner as a deed.

13. The title of a married woman in real estate, and her interest in her husband's real estate, shall not be divested out of her except by a deed, signed and delivered by her husband and herself in the presence of two witnesses, and acknowledged by him, and also by her out of his presence and hearing to be her act and deed, and that she voluntarily or willingly executes it, or by a deed signed, delivered and acknowledged by an agent appointed by both husband and wife expressly for the purpose of making such deed, by force of an instrument of writing, signed, delivered and acknowledged both by husband and wife in the manner before directed in this section for deeds, and recorded with or before the deed so made by such agent.

14. All deeds and instruments of writing, which are required to be acknowledged, and which are executed in Maryland in Liberia, must be executed in the presence of two witnesses, and no justice of the peace shall take an acknowledgment of a deed which is not witnessed by two witnesses, of which he may himself be one.

15. All deeds and instruments of writing, which are required to

be acknowledged, may be acknowledged before any justice of the peace for the colony or for any county therein. But if the parties be out of the jurisdiction of Maryland in Liberia, they may acknowledge the same in any court of justice having a seal, or before any mayor or chief magistrate of a city, borough, town, or other corporation of that sort, having a seal, or before a notary public; and such acknowledgment certified under the seal of such court, city, borough, town, or other corporation, or notary public, shall have the same effect, as if made before a justice of the peace, and to such deeds, witnesses shall not be required.

16. All deeds and instruments of writing, touching the title to real property, shall be recorded before they produce any effect, and in case of clashing titles derived under several conveyances, that first recorded shall prevail.

17. All deeds and other instruments, touching the title to real estate, shall be recorded with the Register of the Colony, until the same is divided into counties, and afterwards with the Register of the County where the land lies; and no Register shall admit any such deed or instrument to record, unless it shall have been witnessed and acknowledged in the manner hereinbefore directed.

18. Any deed which is actually signed and delivered, although not legally witnessed, acknowledged or recorded, shall be valid against any of the parties not being a married woman, and may be enforced by action of damages or specific performance; but not against a married woman, as to whom it shall be totally void; against purchasers of the same property by a legally executed, witnessed, acknowledged and recorded deed, such defective deed shall be totally void.

19. Every deed shall be construed to convey all the interest of the parties grantors, unless the contrary plainly appear on the face of the deed.

20. Every deed made to two or more purchasers, or other persons, shall be construed to convey the property to them equally, the share of each to pass to his administrator at his death, unless the contrary plainly appear upon the face of the deed; but if a deed is made to two or more persons, and the survivors or survivor of them, it shall be valid, and the right of survivorship can only be put an end to, by an agreement among all interested.

21. Real property may be conveyed by way of mortgage or pledge in the same manner as absolutely, only that the intention must plainly be expressed on the face of the deed. If the debt for

which such property is mortgaged or pledged, shall not be paid at the appointed time, the creditor shall have a right to sell all the interest of the pledgor or mortgagor, for which purpose he may bring an action of debt, and issue an attachment against the said property, under the eleventh section of the second chapter of the second title of "the Ordinance for the redress of injuries in the Colony of Maryland in Liberia." If the debtor pays the money at any time before a sale of property, the creditor or his administrator shall give him a release thereof to be executed, witnessed, acknowledged and recorded in the same manner as a deed of real estate, which shall place the title to the mortgaged or pledged estate in precisely the same position as if the deed of mortgage or pledge had never been executed.

22. The proprietor of real estate may convey it for a less interest than he has in it himself, that is to say for a fixed period of time, or during the life or lives of any person or persons in being named in the deed; but not for any other description of interest. A grantor who has not parted with his whole interest, retains an interest or right to re-possess his estate after the expiration of the interest granted, which is called a reversion, and which he may dispose of either in the same or another deed.

23. A grantor who retains a reversion may reserve to himself a rent for his property during the interest created by the deed, payable at stated periods in money or other valuables, or an interest in the crops. A deed conveying an interest less than that of the grantee is called a lease, the grantor lessor, and the grantee lessee.

24. The payment of rent may be enforced by action of debt or contract, or by distress for rent. A distress is the seizing of the goods of the tenant on the property leased, or which have been on the same, within thirty days, by virtue of a warrant of distress, directed to a sheriff or constable, and issued by a justice of the peace on the application in writing of the landlord or his agent, accompanied by a statement on oath of the amount of rent due. The officer to whom the warrant is directed is to proceed exactly as if it were an execution. But if any question arises as to rent being due, the right of distress, or the property of the goods taken, it may be tried in an action of replevin brought against the landlord or officer by the owner of the goods. The warrant shall not authorize the officer to meddle with the goods of any other person than the tenant, although they may be on the leased property. The lessee or his assignee is the landlord, the lessor or person in possession under the lease the tenant.

25. A lessee is bound to pay his rent, although the lessor may have no title to the property, provided he enjoys the property during the time for which the rent claimed is due, but if either by defect of title in the lessor on any act or omission of the lessor, he loses all benefit of the property, he is not bound to pay any rent after such loss; and if by defect of the lessor's title, he loses a portion only of the benefit of the property he is entitled to a proportional reduction of his rent, and if the lessor by his own act deprives him of the use of any part of the property, he is released from all claims for rent.

26. A lease may contain a clause stipulating, that if a certain amount of rent, not less than one year's rent, is at any time due and unpaid, the lease shall be forfeited, and the lessor entitled to re-enter on the property leased. This is called a clause of re-entry. A clause of re-entry may be enforced and the forfeited property recovered by action of ejectment, in the form pointed out in the seventeenth section of the fourth chapter of the second title of the Ordinance for the redress of grievances in the Colony of Maryland and Liberia.

27. There may be a verbal lease for a time not exceeding one year, and a lease for one year may also be inferred from the fact of one person going into possession of the property of another with his consent, and the consent shall be inferred from the fact of the owner, receiving or demanding rent of the person occupying his property. Whenever a lease for a year or less time, is made in any mode, the lessee shall be entitled to renew it, by simply remaining in possession, unless the lessor or his assignee shall give to such lessee three months notice in writing, to quit the possession of the leased property, at the end of the time for which it was leased. If no such notice is given, and the lessee holds over, he shall be considered lessee for another term like that just expired. If the original lease was for a less time than three months, thirty days notice shall be sufficient, the lessor may also renew the lease, and recover rent unless the lessee gives him such notice, as hereinbefore directed of his intention of quitting possession of the leased property at the expiration of the time for which it was leased.

28. A lessee of real property may make any improvements on the same that he thinks fit, and may remove the same, although they may have become real property, at any time before the termination of his lease, provided he leave the property which was leased to him in the same plight and condition that it would have been in,



had he not made such improvements, but he is responsible for all damage done to the leased property by him, either in consequence of such improvements, or of any other act authorized or permitted by him. If damage be done to leased property by an irresistible power, lawful or unlawful, or by wind, fire, or other action of the elements or powers of nature, the lessee is not answerable, unless it is clearly shewn that he provoked the violence, if the damage were occasioned by human violence, or in some way contributed to the calamity.

29. Every conveyance of real estate, shall be absolute as far as it goes, and shall not be liable to be defeated by any condition, limitation, provision, or clause in the deed contained, except only where the conveyance is by way of mortgage or lease, and to be defeated by payment of the debt, or non-payment of rent in the manner hereinbefore authorized.

30. Every conveyance of real estate, shall be made to the person for whose benefit it is designed, and not to one person in trust for another, except mortgages.

31. All clauses contained in any deed, contrary to the provisions of the two last sections, shall be utterly void.

32. The title to real property being always in writing, the grantor is not bound to indemnify the grantee for any defect in the title, unless he expressly contract so to do. A clause to that effect, called a warranty, may be inscribed in any deed, but will not be binding on a married woman who may execute such deed.

33. Real property may be disposed of by will to the same extent as by deed. The necessary formalities provided for in the ordinance for the temporary government of the colony, being observed. This extends as well to property acquired after as before making the will, provided an intention of disposing of after-acquired property is clearly expressed upon the face of the will.

34. The proprietor of real estate, has in general a perfect right to dispose of the same by legal deed or will, conformably to the regulations herein contained; but it is lawful to convey real estate to a woman by a deed containing a clause prohibiting her and her husband from conveying the same to any person whatever, and from anticipating the income thereof, which clause shall be valid and effectual to prevent such acts at any time when such woman is married, whether she have been married at the date of the deed or will under which she holds such property or at the period of her acquiring the same or not. But such clause shall produce no effect

on the rights of such woman over the property at any time when she is unmarried. Nevertheless, if she make a conveyance while single of property held under such clause, and take an absolute re-conveyance, and then marry, the conveyance and re-conveyance, shall be vacated by the marriage, and she shall be entitled only under the deed with the restrictive clause, and shall hold the property subject to the effect of such clause.

35. The original title to personal property brought from without the limits of the colony, is in the person who owned it in the place from whence it came. The original title to animals, is in the person who owned the female parent, or in the case of wild animals in the person who caught or killed them. The original title to vegetables is in the proprietor of the soil on which they grew, of artificial substances in him who owned the materials of which they were made.

36. The ordinary mode of transmitting title to personal property is by actual delivery of the property itself, the possession of personal property being, until explained, evidence of title.

37. The title to debts, the evidence of which is a writing, signed by the debtor or his agent, promising to pay the debt to the bearer, is transmitted by a delivery of such writing. The title to debts, the evidence of which is a writing, signed by the party or his agent, but not promising to pay the debt to the bearer, is transmitted by delivery of the writing, with an assignment endorsed thereon, and signed by the person intending to transmit the title. The title to debts, the evidence of which is a judgment, not rendered by a justice of the peace, is transmitted by an assignment in writing, signed by the person intending to transmit the title and filed in the court in which the judgment was rendered among the papers in the cause.

38. The title to personal property, which is not susceptible of delivery, such as growing crops and debts, the mode of transmitting title to which is not provided for in the last section, and such other property as from any cause cannot be delivered, and to all ships and sea-going vessels having decks, shall be transmitted by deed executed, acknowledged and recorded in all respects like deeds of real property.

39. When it is desired to transmit the title to other personal property without actual delivery, it is permitted to be done in the manner directed in the last section; but this permission must not be construed to extend to articles which perish or are consumed in the using, or to a stock in trade which is left in the house of the

grantor in the deed, either to be sold or worked up into a different form, as to such property a deed will be void.

40. Deeds respecting personal property subject to the restrictions abovementioned, may be made in the same manner, and to the same effect, as deeds of real property, to which they are to be as much as possible likened; and in no other manner, and to no other effect. But no lease of personal property shall contain a clause of re-entry or forfeiture for non-payment of rent, or shall authorize any distress for rent; and all clauses to that effect in any lease of personal property shall be void.

41. Every person who sells personal property in any way, is understood to warrant the title thereto; that is, to undertake to indemnify the purchaser if he is deprived of the property by any person having a better right to it than the seller; but this section does not apply to the seller of a debt.

42. The seller or passer away of a debt evidenced by a writing payable to bearer, warrants nothing but that the instrument of writing is not forged, and that he himself has not been guilty of any fraud or misconduct which will prevent the person to whom he sells or passes the writing from recovering the debt. The seller of any other debt warrants that the debt exists, and that he has a right to assign it, but not that it will be paid, unless he gives in writing a more extensive warranty.

43. A debtor whose debt, not made payable to bearer, has been assigned, is entitled to make all the defences against the assignee or his assigns which he could have made against the assignor.

44. When the seller of personal property transmits the title thereto by actual delivery, without writing, he warrants nothing but the title; but if in a deed, bill of parcels, receipt for the purchase-money, or other writing, he gives any description of the thing sold, he warrants thereby that the article sold answers such description, and is capable of being applied to the most ordinary purpose for which such articles are used; and if it be for human food that is not spoiled or unwholesome, that is, he undertakes to indemnify the purchaser, if such is not the case, for any loss he may thereby sustain. He may also, by writing, bind himself to any more extensive warranty.

45. When personal property is taken under an attachment issued out of a court, and not by a justice of the peace, against the property of a person who is not the true owner of such personal property, the true owner may, by a petition to the court from which such at-

tachment has issued, or to any judge thereof, interpose a claim for the said property.

46. The court or judge shall thereupon give notice of such claim to the plaintiff, or his agent, whose duty it shall be, within seven days, to file an answer to the petition denying the truth of the claim; and, if he does not, the claim shall be allowed.

47. If the plaintiff or his agent deny the truth of the claim, the court shall cause the issue to be tried by the jury attending the court, if there be one, otherwise by the first jury in attendance; if the jury find for the claimant, the property shall be delivered to him, if against him his petition shall be dismissed, and he shall pay all the costs occasioned thereby.

48. If the true owner of personal property, taken in attachment in the manner mentioned in the forty-fourth section, neglect to file a petition, or his petition is dismissed, and judgment goes against the defendant in the original action, the sheriff or elizor sells the goods under a writ of sale, the purchaser thereby acquires a good title to such personal property, and the original owner loses all right to them.

49. Every judicial sale made by a public officer by authority of a writ of execution or sale, or warrant of distress issued by a court or justice of the peace, of personal property in the actual possession of such officer, shall give a good title to the purchaser, provided the officer puts such purchaser in possession of the property, unless the true owner of the property, or somebody for him shall, at the time and place of the sale, give notice of his claim. But this effect shall not be produced by any judicial sale, unless one week's notice of the time and place of sale have been given in a newspaper, when there shall be one in the colony or county in which the sale takes place; and, until then, in such mode as the Governor in Council may from time to time appoint. The true owner of the property may, in any event, have his action of damages against the sheriff, or any other person, for any injury done to him in the premises.

50. Every sale or pledging of personal property, by any person who is in actual possession thereof by consent of the owner or his agent, by way of actual delivery thereof, shall transmit a good title to the purchaser or pledgee, unless such purchaser or pledgee shall know, or have reason to suspect, that seller or pledger is not the owner of the goods, and has no right to sell or pledge the same. But a wrongful possessor of goods cannot transmit any title thereto, and deeds touching personal property shall only transmit the title of the grantors.

51. An action of contract will lie for the breach of any of the warranties hereinbefore mentioned, or of any warranty expressly given in writing, and of no others. An action of damages will lie in the same cases, and also if either of the parties to any sale of debts or other property is guilty of any fraud, or obtain an advantage in the bargain, either by means of asserting any thing false or concealing any important truth. Mere silence is not to be considered a concealment, unless a false or evasive answer is given to any question, or some means of concealment used, or unless it clearly appear that the party charged with concealment knew an important fact, the knowledge of which would probably influence the other in the bargain, and also had reason to believe that the other party did not know the same fact, and kept silence for the purpose of making a more advantageous bargain.

52. Every gift, conveyance, or transfer of any property, real or personal, not made for a valuable consideration, shall be deemed void as against all persons who are creditors or have claims, whether founded on contracts or injuries, against the person making such gift, conveyance, or transfer, at the time of making the same.

53. The claims of such creditor, or other person who shall claim the benefit of the last section, may be reduced into the form of a judgment, either before or after such gift, conveyance, or transfer. But it shall be the duty of the person seeking to set aside any gift, conveyance, or transfer, to shew that, at the time thereof, his claims existed actually and in good faith.

54. Every conveyance, transfer, or pledge, of any property, real or personal, and every contract, agreement, instrument of writing, judgment, execution, or other transaction of whatever nature, although founded on a valuable consideration, if made with a view and intention of hindering or delaying any person in the recovery of any just claim, shall, against such person so intended to be hindered or delayed, be utterly null and void.

55. By marriage a woman acquires a right of dower in the real estate of her husband, agreeably to the provisions of the 7th section of the ordinance for the temporary government of the colony.—Marriage produces no effect whatever on the personal property of the husband.

56. Dower is a right to receive one-third of the increase or profits of real estate, during the whole interval between the death of the husband and that of the widow, or at the choice of the widow to have such portion of the real estate laid off for her separate

possession, as will produce one-third of the annual income or profits of the estate.

57. If the widow choose to have her dower laid off in land for her separate possession, she is entitled to have the second best dwelling-house on the land, or the only dwelling-house if but one, included in the same, provided she choose it, and provided that the value of the annual income or profits including a fair rent for such house, will not exceed her just proportion of the annual income or profits.

58. A widow while she is a widow, has an absolute right over her dower; but if she marries, all the provisions of the thirty-fourth section, attach to her dower property.

59. Marriage gives to the husband a right to the annual income or profits of all the wife's real property, during the marriage, however acquired, unless it is subject to the regulations of the thirty-fourth or fifty-eighth sections, or unless he has agreed in writing, acknowledged and recorded like a deed, that she shall receive such annual income or profits, or any part thereof to her own separate use, and even in that case, he shall be entitled to retain whatever portion of such income or profits he may have actually received with her consent. The agreement mentioned in this section, may be made with the wife or any other person, and either before or after marriage.

60. Marriage also gives to the husband, the right of joining in conveyances of the wife's real estate, so that they will be absolutely void without his signature.

61. Marriage and the birth of a child, gives the husband an estate for life in all the real property of the wife, whereof the husband or wife is possessed at any time during the marriage. But this interest is not liable to be taken in execution during the life of the wife. This interest is called tenancy by the curtesy.

62. Marriage gives to the husband no right whatever in any real property of the wife, whereof the husband or wife is not in actual possession or receipt of rent at some time during the marriage, except the rights secured to him by the fifty-ninth section.

63. Marriage gives to the husband an absolute right to all the money, and other personal property of the wife, which is of a nature to be consumed in using, and a right to take into possession, sell, and dispose of, for a valuable consideration, all other personal property of the wife, to the possession of which she is entitled at any time during the marriage. But if any such property is not re-

duced into actual possession by the husband, or his assignee, during the marriage, it returns to the wife or her administrator.

64. Marriage gives to the husband no right over any personal property of the wife, to the possession of which he was not entitled at some time during the marriage.

65. Property which the husband is only entitled to sell under the sixty-third section, cannot be attached as his, or sold under execution against him, if it can be clearly shewn to have belonged to the wife, and been in her possession before marriage, or to belong to her and never to have been in her possession or that of her husband.

66. A married woman, whose property is attached for her husband's debts, may claim protection in the same manner as a stranger; but if she neglects to do so, property in actual possession of herself or husband, and actually taken by the sheriff or elizor, may be sold, and the purchaser will have a good title. Property of the wife, not in the actual possession of the husband or wife, is absolutely protected from attachment and execution.

67. The insolvency of the husband, and his assigning his property for the benefit of his creditors, produce no effect on the real property of the wife during her life, or any personal property of hers, other than money or articles consumed in the use, and which have by the marriage vested absolutely in the husband. If the husband survives the wife, his trustee under the assignment for the benefit of his creditors is immediately entitled to his estate by the curtesy, and all the other rights which survivorship may give the husband in the property of his deceased wife.

68. On the death of the husband whatever property, whether real or personal, can be shewn to have belonged to the wife before marriage, or to have been acquired by her during her marriage in her own right, and to be in her own possession, or that of her husband at the time of his death, or being in the possession of others, has not been sold and disposed of by the husband for a valuable consideration, and actually reduced into possession by his assignee, shall be the absolute property of the widow.

69. On the death of the wife the husband shall be entitled to her household furniture, and farming cattle and utensils, by survivorship; the residue of her personal property shall go to her administrator, to be distributed among her children and descendants, if any, subject to the claims of her creditors for debts contracted before marriage. If there are no children or creditors, the parents of the deceased wife and the husband shall divide the surplus after payment

of debts. If there are no children, or descendants, or parents, her husband shall be entitled to be administrator, and to take her property to his own use, paying her debts contracted before marriage, if any.

70. On the death of any person whatever, married or single, all his or her property not expressly excepted by law, shall vest in an administrator, whose duty it shall be to administer the same for the benefit of the heirs of such person: paying first, the reasonable expenses of the funeral; secondly, the debts of the deceased; thirdly, the legacies bequeathed by will, if any, and then to pay over the surplus or residue to the persons entitled to receive the same under the will, if any, otherwise to the heirs, and in all things to conform himself to the provisions of the eighth and ninth sections of the ordinance for the temporary government of the Colony of Maryland in Liberia.

71. A wife shall be so far heir to her husband, as to be entitled to her dower in his real estate, and to one-third of the surplus or residue of his personal property.

72. Subject to the provisions of the last section, the children or descendants of every person are his or her heirs, and the property shall be equally divided among them by stocks, each child or deceased child being regarded as a stock, and the children of every deceased child or descendant standing collectively in the place of their deceased ancestor.

73. If there shall be no child or descendant, the husband or wife and parents of the deceased shall be his or her heirs; that is to say, if both parents survive, they shall have one-half of the surplus or residue, and the husband or wife the other half; if no parent, the husband or wife shall have the whole; if no husband or wife, the surviving parent shall have the whole. Before the wife is entitled to be an heir under this section, she must agree to renounce her dower and rights under the sixty-ninth section.

74. If there shall be no children, descendants, husband, wife, or parents, the brothers and sisters of the deceased, and the descendants of the deceased brothers and sisters, shall be his or her heirs, and the property shall be divided among them by stocks, each brother or sister, or deceased brother or sister, being regarded as a stock; and the children of every deceased brother or sister, or deceased descendant from a deceased brother or sister, standing collectively in the place of their deceased parent.

75. If there shall be no children, descendants, husband, wife, parent, brother, sister, or descendant from a brother or sister, then



the grandfathers and grandmothers, and other lineal ancestors of the deceased who may be living, shall be his heirs, and the property shall be divided equally among them by the head.

76. If there shall be no persons entitled to be heirs under any of the preceding sections, the nearest relations of the deceased shall be heirs, and shall divide the property equally among them by the head, without regard to stocks.

77. If there are no relations of the deceased, that is, no lineal ancestors and persons who can prove their descent from some grandfather or grandmother of some grandfather or grandmother of the deceased, the children of the colony shall be heirs, and the surplus or residue of the estate shall be applied for the benefit of schools or other means of education, in such manner as the Governor for the time being may direct.

78. No person can be heir to another, who cannot trace his relationship through legitimate births, or persons who have been legitimated as hereinafter provided for, except that illegitimate children may be heirs to their mother, or to her children, or descendants, or lineal ancestors. But the mother of an illegitimate child cannot be heir to it or its descendants.

79. Legitimate births are those which take place during marriage, or within such a time after the death of the husband that the child may be, according to the usual laws of nature, reasonably presumed to be his. Nevertheless, if it be proved that circumstances existed which rendered it impossible that the husband should have been the father of any particular child born of his wife, such child shall be deemed illegitimate.

80. Illegitimate children may be legitimated if the parents intermarry within five years after the birth of the child, neither of them having been in the interval intermarried with any other person, and both having been unmarried at the time of the birth of such child.

81. Every sane person of the age of twenty-one years, married women only excepted, may make his or her will, in writing, observing the provisions of the third section of the Ordinance for the temporary government of Maryland in Liberia, and by such will may dispose of his or her real and personal estate, and appoint an administrator or administrators for his or her estate, and guardians for his or her children.

82. All wills not made in conformity to the provisions of the last section shall be null and void, as well as wills made by persons not qualified to make a will under its provisions.

83. Any person qualified to make a will may, at his or her pleasure, make as many codicils or additional wills as he or she may think proper, observing always the forms required in a will.

84. No will or codicil shall be revoked, unless by marriage, or by a subsequent will or codicil, or other writing, signed by the testator, and witnessed in the same manner as a will, or by the destruction of such will or codicil, or by the cancelling or erasing the signature thereto by the testator or his authority. But if the testator, with intent to revoke any will or codicil, shall begin to destroy the same, or to cancel or erase the signature, and shall be prevented by force, fraud, or accident, from completing such destruction, erasure, or cancellation, such testator being then of sane mind, the revocation shall be regarded as complete.

85. If a testator, whether male or female, marry, his or her will, and all codicils, shall be thereby revoked and annulled.

86. A devise is real property left or devised to any one by will or codicil, and the person in whose favor a devise is made, is called a devisee. A bequest, or legacy, is personal property left to any one by will or codicil, and the person in whose favor a bequest or legacy is made, is called a legatee. The person who makes a will or codicil, is called a testator. A devise, bequest, or legacy, of any thing individually, designated and specified in the will or codicil, is called a specific devise or legacy.

87. If a person to whom a devise, bequest, or legacy is given in any will or codicil, dies before the testator, such devise, bequest, or legacy, shall go to the heirs of such person, unless otherwise directed by the testator, provided such heirs be lineal descendants or ancestors, or descended from the grandfather or grandmother of the devisee or legatee. But the creditors of such devisee or legatee, or the heirs more remotely related than those before in this section specified, shall have no interest in such devise or legacy; and if there be no heirs qualified to receive it, it shall fall and remain for the benefit of the heirs of the testator, or of those to whom he may have left the surplus or residue of his estate.

88. If a testator has made a specific devise or legacy, and afterwards parts with his entire title to the thing specifically devised or bequeathed, he or she is to be considered as revoking the devise or legacy; but if he retain any interest therein, such interest, at the time of his death, will pass to the devisee or legatee.

89. If a testator do not leave sufficient property to pay his funeral expenses, debts, and legacies, his funeral expenses shall be first

paid, then his debts, then his specific devises and legacies, and the other devises and legacies shall abate proportionably to their value. If there is not property enough to pay the funeral expenses and debts, without encroaching on the specific devises and legacies, then the specific devisees and legatees shall contribute, among each other, to make up the deficiency, in proportion to the value of their respective devises or legacies, or, if necessary, shall lose them altogether.

90. There shall be a court, called the Orphans Court, of which the Chief Justice of Maryland in Liberia for the time being shall be judge, and the Register for the time being shall be clerk. It shall always sit at the same time and place as the Court of Monthly Session, and at such other times and places as the court may by rule or occasional order appoint. Its seal shall be the same with that of the Court of Monthly Session, until further enactment.

91. When the colony shall be divided into two or more counties, there shall be an Orphans Court in each county; the Chief Justice shall be judge only in the county in which he resides; in each of the other counties there shall be appointed a judge of the Orphans Court, who shall reside therein, and shall have, within the same, the powers and authorities which the Governor possesses, by virtue of the Ordinance for the temporary government, or the Chief Justice by this Ordinance, or any other Ordinance made, or to be made, in relation to administrators, guardians, trustees of insolvent estates or lunatics, or the estates of deceased or insolvent persons.

92. When there are several Orphans Courts in the colony, the Register of the colony shall be clerk only of that of the county in which he resides; in each of the other counties, there shall be appointed a Register of Wills and clerk of the Orphans Court, who shall have all the powers and authority of the colonial register, which he possesses either by virtue of the Ordinance for the temporary government, or this Ordinance, or any other Ordinance made, or to be made, in relation to the Orphans Court, administrators, guardians, trustees of insolvent debtors or insane persons, or the estates of deceased or insolvent persons.

93. The Orphans Court shall have a summary jurisdiction over all guardians, administrators, trustees of insolvent estates, and trustees for insane persons, all of whom shall be regarded as its accounting officers; it may, on the petition of any person whatever, call before it any of the officers in this section mentioned, or any person who has filled any such office, and not finally closed his or her

accounts and delivered over the property in his or her hands, and compel such officer, or late officer, to settle an account of his doings, and to pay over or deliver any money, or other property which may appear to be in his hands, to the person or persons entitled to receive it.

94. The Orphans Court may, by permanent rules, appoint periods at which all its accounting officers shall, as a matter of course, be bound to settle an account, and every accounting officer who shall not comply with such rule, or against whom any complaint or petition shall be filed, shall be called before the court by a writ of summons, obedience to which may be enforced by writs of re-summons, attachment, or arrest, as in the case of actions commenced in other courts, agreeably to the provisions of the second chapter of the second title of the Ordinance for the redress of injuries.

95. Whenever any person, who has filed a complaint or petition against an accounting officer of the Orphans Court, and would, if the proceeding were an action, be entitled to a judgment by default, under the twenty-seventh section of the second chapter of the second title of the Ordinance for the redress of injuries, the Orphans Court, instead of rendering judgment by default, shall proceed to hear the allegations and proofs of such person in the absence of the accounting officer, and make such order or judgment as may be proper; which order or judgment shall be subject to all the regulations of the forty-seventh section of the same chapter.

96. The Orphans Court shall have authority to hear all complaints, claims, and demands whatever, against any of its accounting officers, in that capacity; and if it shall appear that the parties are agreed on the facts, or that the truth of the facts in dispute can be ascertained by reference to the records of the Orphans Court, or if the parties consent thereto, the Orphans Court may finally decide the same; but if it shall appear that a question of fact, or mixed question is likely to arise, or that the case is a proper one for an action, the Orphans Court may direct an action in the proper court.

97. The Orphans Court may refer any dispute or controversy, to which any of its accounting officers, as such, is a party, to arbitration, agreeably to the provisions of the fifteenth chapter of the second title of Ordinance for the redress of injuries; but the Orphans Court shall not refer any case in which the claim is made by, or in favor of, its accounting officer, under the provisions of the twelfth section of the said chapter.

98. When arbitrators appointed by the Orphans Court make a

report, which requires to be submitted to a jury under the provisions of the twelfth section of the fifteenth chapter of the second title of the Ordinance for the redress of injuries, the Orphans Court shall transmit such award to the Court of Monthly Sessions; who shall proceed as if the award had been made under their authority, and originally returned to them.

99. All orders and judgments of the Orphans Court may be enforced by execution, like the judgments of other courts.

100. Every person interested in the property under the charge of any of the accounting officers of the Orphans Court, or any person whatever, acting on behalf of an infant or insane person so interested, may apply to the court to require additional security of such accounting officer; and if the court is satisfied that such officer has behaved improperly, or that the security already given is insufficient, the court shall direct additional security to be given.

101. Every person who is security for any of the accounting officers of the Orphans Court, may apply to the court to be released from his suretyship whenever the court shall require such accounting officers to give new security; and, if such be given to the satisfaction of the court, may order the old bond to be cancelled; and if such be not given, may remove the accounting officer refusing or neglecting to give such new security.

102. It shall be lawful for any person making a will or codicil to appoint therein, one or more administrators of his estate, and after the death of such testator and the proving of his will, it shall be the duty of the Register to inform the Orphans Court of the name or names of the person or persons so appointed, and to issue a summons requiring them to appear before the Orphans Court, and give bond. But the person or persons, or any of them so appointed, may at any time by a written instrument, decline the office. When the person or persons appointed administrator or administrators, or so many of them as are willing to act, have given bond according to law, the judge of the Orphans Court shall issue proper letters of administration, and such persons named in the will as administrators and not in the letters, shall cease to have any right to interfere with the estate, and they, and all other persons shall be in all respects in the same situation as if they had not been named in the will as administrators.

103. Administrators appointed by will, shall be subject to all the regulations applicable to administrators contained in the eighth section of the Ordinance for the temporary government, or in this or any other Ordinance.

104. In case any person having real or personal property, shall die without having made a will or appointed an administrator, or in case all the administrators named in any will or codicil be insane, under age, or otherwise disqualified to act, shall die, remove from the colony, decline acting, refuse or neglect to give bond according to law, or to return an inventory, or be removed from office, the Judge of the Orphans Court shall appoint, by writing, an administrator or administrators, who shall have the same powers as if named in a will.

105. No person shall be appointed an administrator, unless he or she be twenty-one years of age, of sane mind, of good moral character, and able to read, write and cast accounts. A married woman may be appointed administrator, jointly with her husband, but not otherwise; and when so appointed her signature to the administration bond shall be binding.

106. Where there is no administrator appointed by the deceased, the judge of the Orphans Court shall select one or more from the persons interested in the estate as heirs, devisees or legatees, if there be any such legally qualified to act, otherwise he may appoint at his pleasure. But a person who is sole heir to another is entitled to have the administration granted to him, or to a person whom he may name, except in the case of a husband sole heir to his wife who may have assigned his property under the nineteenth chapter of the Ordinance for the redress of injuries, when it shall be granted to the trustee under such assignment.

107. Every administrator and other accounting officer of the Orphans Court shall within thirty days after his appointment, return a full inventory of the estate under his charge, or he shall be removed from office, and it shall also be his duty from time to time, to return additional inventories of all such property not comprised in the first as may come to his hands, within fifteen days after taking possession of the same, and upon neglecting so to do, he may be removed from office in the discretion of the Orphans Court. Every inventory shall be accompanied by an affirmation of its truth and a promise that the administrator will return additional inventories should he discover more property.

108. Every administrator and trustee, for the benefit of the creditors of an insolvent debtor, shall at the time of returning an inventory, or at such convenient time, shortly thereafter as the Orphans Court may appoint, return a list of the debts due to the estate or insolvent, and shall at the time of returning the same,

make oath that it is correct to the best of his knowledge and belief, and that he will, well and truly charge himself with all debts due the deceased or insolvent which he may discover and collect.

109. No administrator or other accounting officer of the Orphans Court shall sell any property under his charge, as such, unless by order of the Orphans Court, and if the property sold, be real estate, or a sea-going vessel having a deck, or the terms of the order of sale require it, every such officer shall report such sale upon oath to the Orphans Court; who shall, if the property be considerable, give notice to all persons interested, by publication in such manner as the court by general rules may direct, to come in and shew cause, if any they have, why the said sale should not be ratified, and the sale shall be incomplete until ratified by the court, which it shall be in the discretion of the court to do or not as may appear just.

110. No sale of real estate, or of a sea-going vessel having a deck, made by an accounting officer of the Orphans Court shall be valid, unless made in pursuance of an order of court, and any accounting officer, who sells any other description of property without such order may be removed from office, and shall account for the appraised value of the property so sold, and for such additional amount as the Orphans Court, after investigation, may direct, although he sold the property for less than the appraised value.

111. Every creditor of a deceased or insolvent person, shall within four calendar months after the appointment of an administrator or trustee, file with the Register the evidence of his or her claim, which shall be either the copy of a judgment or other record certified by the proper officer, an original instrument of writing, signed by the deceased or insolvent, or an account made out by the creditor. Each of the above vouchers shall be accompanied by an affidavit sworn by the claimant after the death of the deceased, or assignment of the insolvent, that the claim is still justly due and unpaid. No claims not so filed, shall be entitled to any dividend out of the estate.

112. It shall be the duty of every administrator and trustee, within five months after his appointment, to pay all the debts of the deceased or insolvent, equally, except so far as particular creditors may have legal liens or claims on particular property in his possession, which claims or liens shall be first satisfied out of the property liable to them, and then all just claims shall be paid equally, provided that any administrator or trustee may dispute any claim,

and retain its proportions of the estate in his hands until such dispute is settled.

113. Every administrator or trustee shall pay out of the estate; first, the reasonable funeral expenses of the deceased, in the discretion of the court, then the public taxes on the property, then the necessary expenses of defending, preserving and disposing of the property, then the expenses of the improvements or alterations which he, with the consent of the Orphans Court, may have made in the property for the benefit of the estate, the fees of the Register, and his own commissions as ascertained by the court, before he distributes the estate among the creditors.

114. Every administrator and trustee for the benefit of the creditors of an insolvent debtor, shall within five months after his appointment settle an account with the Orphans Court, in which he shall charge himself with the inventory, with the difference between the price for which any articles have sold, and the rate at which they were appraised, with all debts which he has collected, and with all sums of money which he has received on account of the estate, and with such sums as the court may direct under the 110th section, and shall be credited (if an administrator,) with the funeral expenses of the deceased, with the loss of any articles belonging to the estate, which have perished without his fault, with the difference between the price of any articles sold by authority of the Orphans Court, and the inventory value thereof, with all lawful payments made by him for the preservation or advantage of the estate of which the Orphans Court may approve, with the public taxes, and rents payable on account of the estate and falling due after the death or insolvency, with his commission as fixed by the court, and the fees of the Register, and with such payments as he may have lawfully made on account of the debts of the deceased or insolvent.

115. Every administrator or trustee settling an account, shall make oath, that the account is just and true, that he hath charged himself with all that he hath received belonging to the estate, and hath asked credit for nothing which he hath not actually lost, paid or secured to be paid, except his commissions.

116. Every administrator and trustee for the benefit of the creditors of insolvent debtor, after having settled his account in the manner provided for in the two last sections, may ask, and the Orphans Court in its discretion may grant, further time not exceeding six months from the settlement of the last account to wind



up the estate, but the accounting officer must in that case settle another account at least thirty days before the expiration of the time allowed, when the court may either allow further time or not in its discretion. But a record shall be kept by the Register of all allowances of time to settle the estate, and each allowance shall be endorsed on the original of the last account and signed by the judge, and the court shall not, unless under very peculiar circumstances, made out to their entire satisfaction, allow more than two years in the whole for the settlement of any estate.

117. Guardians and trustees for insane persons, shall settle accounts on similar principles, charging themselves with all they have received, and crediting themselves with what they may have expended on account of the orphan or insane person, provided such expenditure is approved by the court, and also with other payments and losses, in the same manner as administrators.

118. The Register shall record in one book all inventories and lists of debts; in another, all accounts and allowances of time; and in a third, all wills, and shall keep sufficient indexes to each; and also in a separate book, a list of all accounting officers in the order of their appointment, referring to the book and page of their inventories and accounts, and shall keep to the same an index of the names of the accounting officers, and of the deceased, insolvent, orphan, or insane persons whom they represent.

119. As soon as the first or other account has been rendered, from which it appears that the administrator or trustee has in his hands an amount of money clearly applicable to the payment of the debts of the deceased or insolvent, it shall be his duty under the direction of the Orphans Court to declare a dividend among them, and forthwith to pay over to each his proportion of the funds in his hands. But the accounting officer may with leave of the court retain as much in his hands as will meet any disputed claims, and the probable expense of any litigations in which he may be engaged on behalf of the estate.

120. As soon as it appears by an account settled before the Orphans Court, that the debts of the deceased are all paid, it shall be the duty of the administrator under the direction of the Orphans Court to divide the remainder of the estate among the heirs, either by assigning to each a portion of the articles belonging thereto, or by selling the same and dividing the money.

121. As soon as the estate is exhausted and entirely passed out of the hands of the administrator or trustee, he shall settle a final

account with the Orphans Court, shewing together with the former accounts, the entire disposition of the whole property, and this it shall be his duty to do, unless the Orphans Court shall have given further time in six months after his appointment, and in all cases within thirty days after the court shall require it to be done.

122. Whenever there shall be within the limits of the colony an orphan under the age of twenty-one years, without either father or mother, a guardian shall be appointed by the judge of the Orphans Court; who shall have all the authority of a father over the person of such orphan, and shall also be charged with the care of the property belonging to such orphan.

123. Whenever there shall be within the limits of the colony an infant under the age of twenty-one years, possessed of or entitled to property, one or both whose parents are living, it shall be the duty of the father, or, if no father, of the mother, to apply to the Orphans Court, give bond, and take out a warrant of appraisement as other guardians do, and take charge of such property, and account for the same as other guardians. And if the father or mother shall refuse or neglect to do so, or shall be unable to give satisfactory security, a guardian of the child's property may be appointed by the judge of the Orphans Court, who shall, however, have no authority over his person.

124. Whenever any person shall alledge, upon oath, that the parents of any child are entirely unfit to educate and take care of it, on account of insanity or great immorality of character, or of the great immorality of the father, with whom the mother continues to live, it shall be lawful for the Orphans Court to call the child and parents before them by summons or habeas corpus, and, if that is disobeyed, by writ of arrest or compulsory habeas corpus; and after full investigation, if the Orphans Court shall be of opinion that the charge is well founded, and that it is necessary for the well-being of the child that it should be separated from its parents, a guardian may be appointed, in the same manner as if the parents were both naturally dead, and provision may be made for the subsistence of the child out of its own property, or that of its parents, or, if absolutely necessary, at the public expense.

## AN ORDINANCE

TO PROVIDE FOR THE BETTER ADMINISTRATION OF JUSTICE  
IN THE COLONY OF MARYLAND IN LIBERIA.

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*Be it enacted and ordained by the Maryland State Colonization Society,* That there shall be a person appointed by the Maryland State Colonization Society, Chief Justice of Maryland in Liberia, who shall hold his office during good behaviour, but may be removed by the appointing power, in its discretion, after conviction of official misconduct, or any crime, or great misdemeanour, on a trial before a jury, in the Court of Monthly Sessions, hereinafter mentioned; and in case of such conviction, may also be suspended from the exercise of his office, by the agent or Governor, in his discretion, until the pleasure of the appointing power shall be known. The Chief Justice of Maryland in Liberia, shall have all judicial powers and authority which are not expressly prohibited to him, or exclusively conferred upon others by law; but he shall not, by virtue of his office or otherwise, during his continuance in office, act as a justice of the peace, except in criminal matters, in which he shall have, by virtue of his office, all the powers of a justice of the peace.

2. *And be it enacted and ordained,* That, until otherwise provided by law, the present Court of Monthly Sessions shall continue. It shall be held on the first Monday of every month, and shall have original jurisdiction of all civil and criminal cases, other than those committed to the Orphans Court, or the justices of the peace, and shall have appellate jurisdiction in all civil cases in which they have not original jurisdiction, unless otherwise provided by law. It shall also have jurisdiction to try by a jury any charge of official misconduct brought against the Chief Justice of Maryland in Liberia, and in case of conviction to certify the fact, together with a full record of the charges, proceedings, and conviction, to the agent or Governor, or acting Governor for the time being, to enable him to decide upon the propriety of suspending the convicted Chief Justice; which certificate and copy the agent or Governor, or acting Governor, shall, as soon as practicable, transmit to the Maryland State

Colonization Society, together with his reasons for suspending the Chief Justice, should he have so done.

3. *And be it enacted and ordained*, That the present Clerk of the Court of Monthly Sessions shall continue in office until the expiration of the term for which he has been appointed; at which time, and in every third year thereafter, the members of the court for the month of January shall appoint, by a majority of voices, the Clerk of the Court, to act as such for the space of three years succeeding the date of his appointment. He shall keep a record of the proceedings of the Court, and of all judgments pronounced by it, and shall have the custody of its seal. He shall sign and seal all its writs and summonses, and shall take charge of all papers in any cause before the Court, subject to its order, and of the original commissions of the Chief Justices of Maryland in Liberia; and also of all orders removing or suspending any Chief Justice. Whenever required so to do, he shall give copies, under the seal of the Court, of all judgments, or other records or documents in his office. He shall perform all duties similar to any of those abovementioned, which shall be required of him by the Court.

4. *And be it enacted and ordained*, That there shall be established a court called the Orphans Court, which shall have authority to oversee the conduct of all administrators, guardians, and assignees of insolvent debtors, and shall have all such jurisdiction as is or may be committed to it by law. Until otherwise provided, the jurisdiction of the Orphans Court shall extend throughout Maryland in Liberia. The Chief Justice of Maryland in Liberia shall be sole judge of the Orphans Court, and the Register of the colony its clerk; but whenever the colony shall be divided into counties, there shall be an Orphans Court in each county, and provision shall be made by law for appointing the judges and clerks. In that case, the Chief Justice of Maryland in Liberia shall continue to be the judge of the Orphans Court in the county in which he may reside.

5. *And be it enacted and ordained*, That the judge of the Orphans Court shall have authority to fix the commissions of all administrators, guardians, and assignees of insolvent debtors, as to him may seem just, allowing in no case more than ten per centum; and so much of the eighth section of the Ordinance, entitled "An Ordinance for the temporary government of the Territory of the Maryland State Colonization Society in Africa," as gives that power to the agent, shall be, and is hereby, repealed.

6. *And be it enacted and ordained*, That the Chief Justice of Mary-

land in Liberia shall be the presiding judge of the Court of Monthly Sessions, and shall have all the judicial powers and authority vested in the agent or Governor by the Ordinance, entitled "An Ordinance for the temporary government of the Territory of the Maryland State Colonization Society in Africa," and it shall be the duty of all justices of the peace to send all persons accused or convicted of any offence, whom by the said Ordinance they are directed to send, to the agent or to the Chief Justice ; and the Chief Justice shall have the same power of committing to the public farm which the agent or Governor now has.

7. *And be it enacted and ordained*, That in case of the absence of the Chief Justice of Maryland in Liberia from the colony, or of his incapacity to act by reason of permanent illness, or of his suspension from the duties of his office, or of the trial of any cause in which he may be a party, or otherwise interested, or which may be an appeal from his decision as judge of the Orphans Court, or as a justice of the peace, or in which he may have been employed as a practitioner at the bar ; and during all vacancies in the office, after it shall have been once filled, the assistant agent, or, if there shall be no assistant agent, the Governor or acting Governor shall preside in the Court of Monthly Sessions ; and in case of permanent illness, suspension, or vacancy, shall perform all the other duties of the office of Chief Justice of Maryland in Liberia.

8. *And be it enacted and ordained*, That until some person shall have been appointed Chief Justice of Maryland in Liberia, and shall have produced and read his commission in the Court of Monthly Sessions, and shall have solemnly in open court made affirmation that he will well and truly perform the duties of the office of Chief Justice of Maryland in Liberia, impartially, and without fear, favour, or affection, and a certificate of such affirmation shall have been endorsed upon such commission, and signed by such Chief Justice and by the Clerk of the said Court, and the said commission so endorsed shall have been delivered to the said Clerk, to be by him kept among the records of the said court, the Governor for the time being shall continue to have all the authority and powers, and to perform all the duties assigned by this Ordinance to the office of Chief Justice of Maryland in Liberia.

9. *And be it enacted and ordained*, That no future vacancy in the office of Chief Justice of Maryland in Liberia shall be considered filled, until all the ceremonies prescribed in the last section upon the first appointment shall have been performed, and no suspension

from such office shall be regarded as at an end, until a duly authenticated copy of the Resolution of the Maryland State Colonization Society, putting an end to such suspension, shall have been produced in the Court of Monthly Sessions, read, and filed with the Clerk, to be by him kept among the records of the said Court.

10. *And be it enacted and ordained,* That there shall be two Associate Judges of the Court of Monthly Sessions, who shall be the justices of the peace in rotation, according to seniority; they shall be notified by the Chief Justice, or acting Chief Justice, to attend, two at every Court, in their turns, so that all the justices of the peace shall fill the station of Associate Judges, in rotation, for one court at a time. If any case shall be for trial, which shall have been before either of the Associate Judges for that term as a justice of the peace, or in which either of them shall be a party, or otherwise interested, such Associate Judge shall, during the trial of such case, retire from the bench, and the Chief Justice, or acting Chief Justice, may call any other justice of the peace to fill his place, or the case may be tried by two judges only.

11. *And be it enacted and ordained,* That, until the subject is provided for by law, the Court of Monthly Sessions shall have authority to make rules regulating the mode of admitting and controlling persons as practitioners at law; provided that no person once admitted shall be discharged, except for some immoral action or habit proved to the satisfaction of the Court, after the fair hearing of evidence, and such argument as the accused may choose to make. Every man, however, shall be at liberty to appear in his own case, if he think proper so to do.

12. *And be it enacted and ordained,* That the twenty-eighth section of the Ordinance, entitled "An Ordinance for the temporary government of the Territory of the Maryland State Colonization Society in Africa," shall be, and it is hereby, repealed, but such repeal shall not take effect until the first Chief Justice of Maryland in Liberia shall have fully taken possession of his office.

*Resolved, by the Maryland State Colonization Society, That the thirteen Ordinances which, with the Constitution heretofore granted by this Society to the Colony of Maryland in Liberia, are now printing by John D. Toy, under the direction of Hugh Davey Evans, shall be, and the same are hereby, enacted, ordained, and confirmed, as the Laws of the said Colony; and the said book, entitled "The Constitution and Laws of Maryland in Liberia, with an Appendix of Precedents, published by authority of the Maryland State Colonization Society, Second Edition," is hereby approved, and declared to be a standard edition of said Constitution and Laws.*

Passed August 14th, 1847.

JOHN H. BRISCOE,  
*President pro tem.*

## APPENDIX OF FORMS.

### *Form of a Will.*

Know all men that I, *Adam Ancient*, do hereby make and declare my last will and testament, revoking all others heretofore by me made, that is to say, I give and bequeath,

To my dear wife,

To my son *John*,

To my daughter *Mary*,

Lastly, I make my wife —, and my friend *Henry Honest*, administrators of my estate.

Witness my hand, this — day of — in the year one thousand —.

ADAM ANCIENT.

Signed by *Adam Ancient*, in presence  
of us, who have in his presence, and  
in the presence of each other, signed  
our names as witnesses.

THOMAS TESTIFY,

WILLIAM WITNESS.

Page 11, sec. 3; page 138, sec. 82, 83.

### *Form of a Deed of Real Estate.*

Know all men that I, *George Grantor*, do, for value received, grant and convey to *Paul Purchaser*, a piece of land of the following description, that is to say, [*insert description*,] the said *Paul Purchaser* to have the same title to the said land which I now have.

Witness my hand, this — day of —, in the year one thousand —.

GEORGE GRANTOR.

Signed and delivered in presence  
of THOMAS TESTIFY,  
W. WITNESS.

Page 11, sec. 3.

I certify that *George Grantor* appeared before me on this — day of —, in the year one thousand —, and acknowledged the above written instrument to be his act and deed.

HENRY HONEST,

Justice of the peace for —.

Page 11, sec. 5; page 12, sec. 6.



*Form of a Conveyance by way of Pledge or Mortgage.*

Know all men that I, *Matthew Mortgagor*, for value received, do grant and convey unto *Paul Pawnee*, the following property, that is to say, [*insert description*,] the said *Paul Pawnee*, to have the right to sell the said property unless I pay him the sum of —, with interest after the rate of — per centum, per annum, from —, on or before the — day of —, in the year one thousand —, if I should pay the said sum of money, this conveyance to become immediately void.

Witness my hand, &c.

MATTHEW MORTGAGOR.

Signed and delivered in presence }  
of THOMAS TESTIFY, }  
W. WITNESS. }

Page 12, sec. 6.

*Form of a Deed where a Wife joins.*

Know all men that we, *George Grantor* and *Grace Grantor* his wife, do for value received, grant and convey to *Paul Purchaser*, the following property, [*insert description*,] the said *Paul Purchaser* to have all the title to the same that we or either of us now have or hereafter may have.

Witness our hands, &c.

GEORGE GRANTOR,  
GRACE GRANTOR.

Signed and delivered in presence }  
of THOMAS TESTIFY, }  
W. WITNESS. }

I certify that *George Grantor* appeared before me on this — day of —, in the year one thousand —, and acknowledged the above written instrument to be his act and deed, and *Grace Grantor*, wife to the said *George Grantor*, on the same day, out of the presence and hearing of her said husband, also acknowledged the same to be her act and deed, and that she voluntarily executes it.

HENRY HONEST,  
Justice of the Peace for —.

Page 12, sec. 7.

*Form of a Commission of Guardianship.*

Maryland in Liberia to *Henry Honest*, Greeting:

You are hereby appointed guardian of *Mary Ancient*, orphan of *Adam Ancient*, and are to take charge of her person and property, as soon as an appraisement and inventory of the property can be made, and to take

care of the same for her benefit, rendering accounts of your doings according to law.

Given under my hand, this — day of —, in the year —.

JOHN JUST,

Judge of the Orphans Court of the Colony of Maryland in Liberia.

For the commission of appraisement, use the form on the next page, only say, '*the property of Mary Ancient, orphan of Adam Ancient,*' instead of '*the estate of Adam Ancient, lately deceased.*' Make a similar change in the inventory, and say, '*guardian of the said Mary Ancient,*' instead of '*administrator of his estate.*' Make a similar change in the signature.

#### *Form of a Guardian's Bond.*

Know all men, that we, *Henry Honest, Samuel Surety and Frederick Friendly*, do bind ourselves to *Mary Ancient*, orphan of *Adam Ancient*, that the said *Henry Honest*, shall well and faithfully perform the office of guardian of the said *Mary*, and that we will indemnify her against any injury, damage or loss, she may sustain by reason of the misconduct of the said *Henry Honest*, as such guardian.

Witness our hands, this — day of —, in the year one thousand —.

HENRY HONEST,

SAMUEL SURETY,

FREDERICK FRIENDLY.

Witness, THOMAS TESTIFY.

Bond approved, JOHN JUST,

Judge of the Orphans Court of the Colony of Maryland in Liberia.

#### *Form of Letters of Administration.*

Maryland in Liberia to *Henry Honest*, Greeting :

You are hereby appointed administrator of the lands, goods, chattels and estate, of *Adam Ancient*, lately deceased, and are as soon as an appraisement and inventory of the same can be made, to take possession thereof, and administer the same according to law, for the benefit of his creditors and heirs.

Given under my hand this — day of —, in the year one thousand —.

JOHN JUST,

Judge of the Orphans Court of the Colony of Maryland in Liberia.

Page 12, sec. 8.

#### *Form of an Administrator's Bond.*

Know all men, that we, *Henry Honest, Samuel Surety, and Frederick Friendly*, do bind ourselves to the heirs and creditors, and all other persons interested in the estate of *Adam Ancient*, lately deceased, and to each of them, that the said *Henry Honest* shall well and faithfully perform the office of administrator of the estate of the said *Adam Ancient*,

and that we will indemnify all persons against any injury, damage or loss they may sustain by reason of any misconduct of the said *Henry Honest* as such administrator.

Witness our hands this — day of —, in the year one thousand —.

HENRY HONEST,  
SAMUEL SURETY,  
FREDERICK FRIENDLY.

Witness, THOMAS TESTIFY.

Bond approved, JOHN JUST,

Judge of the Orphans Court of the Colony of Maryland in Liberia.

Page 12, sec. 8.

*Form of a Commission of Appraisement.*

Maryland in Liberia to *Samuel Skilful* and *Philip Prudent*, Greeting:

You are hereby appointed appraisers of the estate of *Adam Ancient*, lately deceased, and are, as soon as conveniently may be, to value and appraise the same according to the best of your skill and knowledge.

JOHN JUST,

Judge of the Orphans Court of the Colony of Maryland in Liberia.

The appraisers affirm that they  
will so value and appraise the  
said estate according to law,  
this — day of —, in the  
year one thousand —, be-  
fore SAMUEL STRICT,  
Justice of the peace. }

*Form of an Inventory of a Deceased Man's Estate.*

An inventory of the lands, goods, chattels, money and property of *Adam Ancient*, deceased, so far as they have come to the hands or knowledge of *Henry Honest*, administrator of his estate, appraised by virtue of the annexed commission.

1. One farm lot of the following description, [insert description,] valued at

\$—

2. One pair of oxen, valued at

—

[And so go through the whole.]

Valued and appraised by us, on this — day of —, in the year one thousand —.

SAMUEL SKILFUL,  
PHILIP PRUDENT.

And taken possession of by

HENRY HONEST, Administrator.

On this — day of —, before the subscriber appeared *Samuel Skilful, Philip Prudent* and *Henry Honest*, and were severally affirmed according to law, that the above written inventory of the estate of *Adam Ancient*, is just and true, and includes all the property of the said *Adam Ancient*, of which they have any knowledge, and that if they should discover any additional property they will disclose the same.

Affirmed before

SAMUEL STRICT, Justice of the peace.

Page 12, sec. 8.

### *Form of a Writ of Re-summons.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to summon [*as you were before commanded,*] *Daniel Defendant* to appear before the Court of *Monthly Sessions for the Colony* on [*insert the time,*] to answer the complaint of *Peter Plaintiff*, and have you there this writ.

Issued this — day of —, in the year one thousand —.

{ Place of }  
{ the seal. }

PHILIP PENMAN,  
Clerk of said Court.

See page 43, sec. 6.

A writ of summons is in the same form, omitting the words, '*as you were before commanded.*'

N. B. When any writ is to be directed to an elizor, instead of the words 'Sheriff of the Colony,' insert the name of the elizor, and after the words 'have you there this writ,' add '*and you are hereby appointed an elizor with the powers of a sheriff in the premises.*' When the colony is divided into counties instead of 'sheriff of the colony' say '*sheriff of — county.*' The name of the court to be altered according to circumstances. These remarks apply to all the subsequent forms.

### *Form of a Writ of Attachment.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to summon, *as you were before commanded,* *Daniel Defendant*, to appear before the court of *Monthly Sessions for the colony*, on [*insert the time,*] to answer the complaint of *Peter Plaintiff*, and also to attach the lands, goods, chattels and credits of the said *Daniel Defendant*, to the value of [*insert the sum,*] and certify your doings to the said court, at the said day, and have there this writ.

Issued this — day of —, in the year one thousand —.

{ Place of }  
{ the seal. }

PHILIP PENMAN,  
Clerk of said Court.

Page 44-45, sec. 9 to 15.

The words '*as you were before commanded,*' to be omitted whenever an attachment is issued without a previous summons.

When the attachment is against specific property, the description thereof is to be inserted instead of the words 'the lands, goods, chattels and credits of the said *Daniel Defendant*,' and all mention of value is to be omitted.

*Form of an Affidavit to obtain an Attachment in Debt.*

*Peter Plaintiff* makes oath according to law, [or else solemnly, sincerely and truly affirms,] that *Daniel Defendant* is justly indebted to him the sum of ——— dollars, and that he fears the said *Daniel Defendant* cannot be found to be summoned.

Sworn before HENRY HONEST, Justice of the peace,

On this ——— day of ———, in the year one thousand ———.

Page 43, sec. 10.

What follows the word 'dollars' to 'sworn before,' is only to be inserted when an attachment is wanted without a previous summons, and the plaintiff may if he will exchange it for 'and that he fears the said *Daniel Defendant*, will not appear if summoned.' Where the affidavit is to be filed in an action of damages, the nature of the injury must be specially stated, and also the amount of damages in a form something like what follows, but adapted to each particular case.

*Form of an Affidavit for an Attachment in Damages.*

*Peter Plaintiff* makes oath according to law, [or solemnly, sincerely and truly affirms,] that *Daniel Defendant* detains from him, the said *Peter Plaintiff*, one pair of oxen, and that he is thereby damaged to the value of [insert the sum,] and that he fears the said *Daniel Defendant* cannot be found to be summoned. Sworn before H. H., Justice of the peace,

On this ——— day of ———, in the year one thousand ———.

Page 44, sec. 10.

*Form of a Schedule under an Attachment.*

Schedule of the lands, goods and chattels of *Daniel Defendant*, seized and taken at the suit of *Peter Plaintiff*, under a writ of attachment, issued out of the court of Monthly Sessions, for the Colony of Maryland in Liberia, on the [insert date of writ,] that is to say:

One town lot in Baltimore street, in the town of Harper, of the following description, [insert description,] appraised at \$——

[And so on until all things seized are scheduled.]

Appraised by HENRY HONEST, } Appraisers.  
SAMUEL SKILFUL, }

Property taken and appraisers }  
affirmed, by }  
DAVID DILIGENT, Sheriff. }

Page 45, sec. 19.

*Form of a Writ of Arrest.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to arrest the body of *Daniel Defendant*,

and bring him before some judge or other person authorized to receive bail, to give security in the sum of *two hundred dollars*, that he will appear before the *Court of Monthly Sessions, for the Colony of Maryland in Liberia*, on the [insert the time] to answer the complaint of *Peter Plaintiff* herewith sent, unless he shall shew you property liable to be attached under the accompanying writ of attachment, sufficient to cover the said sum, and make known your doings to the said court, at the said day, and have there this writ.

Issued by special order of the court [or of *John Just, one of the judges of the court,*] this — day of —, in the year one thousand —.

{ Place of }  
 { the seal. }

PHILIP PENMAN,  
 Clerk of said Court.

Page 46, sec. 23, 29, 30.

### *Form of a Writ of Injunction.*

Maryland in Liberia to *Daniel Defendant*, Greeting:

You are hereby commanded and enjoined to abstain and desist altogether from [insert the matters intended to be prohibited,] until further order is taken in the premises, and you are further commanded to appear before the *Court of Monthly Sessions, for the Colony of Maryland in Liberia*, on [insert the time,] to answer the complaint of *Peter Plaintiff*, and to shew cause why this injunction should be dissolved.

Issued in duplicate and by special order [of the court, or of *John Just, one of the judges of the court,*] this — day of — in the year one thousand —.

{ Place of }  
 { the seal. }

PHILIP PENMAN,  
 Clerk of said Court.

Page 49, sec. 37, 38.

### *Form of a Writ of Arrest for disobeying an Injunction.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to arrest the body of *Daniel Defendant*, and bring him before the *Court of Monthly Sessions for, &c.,* or some judge thereof, immediately, to answer for disobeying an injunction issued by the said court on the complaint of *Peter Plaintiff*.

Issued by special order [of the Court, or of *John Just, one of the judges of the court,*] this — day of —, in the year one thousand —.

{ Place of }  
 { the seal. }

PHILIP PENMAN,  
 Clerk of said Court.

Page 49, sec. 40.

### *Form of a Replevin Bond.*

Know all men, that we, *Peter Plaintiff, Samuel Surety* and *William Wealthy*, bind ourselves to *Daniel Defendant*, that the said *Peter Plain-*

*tiff*, or his administrator or other representatives, will return the goods, which may be replevied by virtue of a writ of replevin, which he the said *Peter Plaintiff* is about to issue out of the Court of Monthly Sessions for the Colony of Maryland in Liberia, against the said *Daniel Defendant*, for the purpose of obtaining possession of the following goods, that is to say, [*insert list of goods,*] and will also pay all costs of the said replevin if any court having jurisdiction of the cause, shall so adjudge, and will also indemnify the said *Daniel Defendant*, from any injury he may sustain by means of the said writ of replevin. The penalty of this bond is \_\_\_\_\_ dollars.

Witness our hands, this \_\_\_\_\_ day of \_\_\_\_\_ in the year one thousand \_\_\_\_\_.

PETER PLAINTIFF,  
SAMUEL SURETY,  
WILLIAM WEALTHY.

Witness, PHILIP PENMAN, Clerk of said Court.

Page 49, sec. 42.

### *Form of a Schedule under a Writ of Replevin.*

Schedule of goods replevied and delivered to *Peter Plaintiff*, by virtue of a writ of replevin, issued out of the Court of Monthly Sessions, for the Colony of Maryland in Liberia, at his suit, against *Daniel Defendant*, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year one thousand \_\_\_\_\_.

One pair of oxen, appraised at \$\_\_\_\_\_

[*And so on until all things replevied are scheduled.*]

Appraised by HENRY HONEST, } Appraisers.  
SAMUEL SKILFUL, }

Property replevied, and apprais- }  
ers affirmed, by }

DANIEL DILIGENT, Sheriff. }

Received the above property from the Sheriff,

PETER PLAINTIFF.

Page 50, sec. 44.

### *Form of a Writ of Replevin.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to replevin out of the possession of *Daniel Defendant*, the following goods, that is to say, [*insert list as in bond,*] and deliver the same to *Peter Plaintiff*, and summon the said *Daniel Defendant*, to appear, &c., [as in a writ of summons.]

Page 49, sec. 43.

*Form of a Bail Bond.*

Know all men, that we, *Daniel Defendant* and *Benjamin Bail*, do bind ourselves to *Peter Plaintiff*, that the said *Daniel Defendant* will perform the judgment of the Court of Monthly Sessions for the Colony of Maryland in Liberia, in an action of debt, brought by the said *Peter Plaintiff*, against the said *Daniel Defendant*, on the — day of —, in the year one thousand—, and the judgment of any court, to which an appeal from such judgment may be taken, or that he will deliver his body to any sheriff, to whom an execution on any such judgment may have been directed, under a penalty of — dollars.

Witness our hands, this — day of —, in the year one thousand —.

DANIEL DEFENDANT,  
BENJAMIN BAIL.

Witness, JOHN JUST.

Page 50, sec. 3.

*Form of a Commitment.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

Receive into your custody and prison, the body of *Daniel Defendant*, and him safe keep, to answer the complaint of *Peter Plaintiff*, in the court [*insert style of court,*] until he shall be discharged by due course of law.

JOHN JUST,

One of the Judges of said Court.

[*Or Commissioner of Bail.*]

Page 51, sec. 4.

*Form of a Complaint in an Action of Contract.*

*Peter Plaintiff* complains that *Daniel Defendant* contracted with him in manner following, that is to say, [*state the contract,*] and that he has not performed the said contract in this, that is to say, [*state the acts or omissions complained of, whereby the said plaintiff hath sustained damage.*]

All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

*Form of a Complaint in an Action upon a Written Contract.*

*Peter Plaintiff* complains that *Daniel Defendant* contracted with him in the manner set forth in a written contract, a copy whereof is herewith filed, and that he has not performed the said contract in this, that is to say, [*state the acts or omissions complained of, whereby the said plaintiff hath sustained damage.*]

All which the said plaintiff is ready to prove.

PETER PLAINTIFF.



If there are several written contracts, say as to the first, after the word 'filed,' 'marked No. 1,' repeat the complaint as often as there are contracts in the manner directed in section 5, page 52, distinguishing each contract by its number.

*Form of a Complaint in Debt on a Written Instrument.*

*Peter Plaintiff* complains that *Daniel Defendant* is indebted to him by virtue of the written instrument, a copy of which is herewith filed, as will appear thereby, and has neglected to pay said debt.

All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

See last note.

*Form of a Complaint in Debt on a Written Instrument, where the debt does not appear on the face of the Instrument alone.*

*Peter Plaintiff* complains that *Daniel Defendant* is indebted to him by force of the written instrument, a copy of which is herewith filed; because he says that, [*insert facts necessary to establish the debt,*] and that the said *Daniel Defendant* has neglected to pay the said debt.

All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

See two last notes.

N. B. The mere lapse of time bringing a debt due, is not a fact which renders it necessary to have recourse to the last form.

For the form of a complaint in debt on an open account, see section 8, page 52.

*Form of a Complaint in an Action of Specific Performance.*

*Peter Plaintiff* complains that *Daniel Defendant* contracted with him in the manner set forth in an instrument of writing, a copy whereof is herewith filed, and although the said *Peter Plaintiff* hath performed his part of the said contract, yet the said *Daniel Defendant* refuses to perform his part thereof in this, that is to say, [*state the acts or omissions complained of.*]

All which the said plaintiff is ready to prove; wherefore he prays judgment of specific performance of the said contract.

PETER PLAINTIFF.

See section 9, page 52.

*Form of a Complaint in Injunction.*

*Peter Plaintiff* complains that *Daniel Defendant* intends to [*state the act which it is intended to enjoin,*] and that the said *Daniel Defendant* ought not to do the said acts, which he intends to do as aforesaid, because the said plaintiff says that [*insert the facts or circumstances which are relied upon as the ground of the injunction.*] All which the said plaintiff is ready to prove; wherefore he prays that the said *Daniel De-*

*defendant* may be enjoined to abstain and desist from doing the said acts which he intends to do as aforesaid.

PETER PLAINTIFF.

*Peter Plaintiff* makes oath according to law, that the facts stated in the above complaint, are true to the best of his knowledge and belief.

Sworn before HENRY HONEST,  
Justice of the Peace.

### *Form of a Complaint in Replevin.*

*Peter Plaintiff* complains that *Daniel Defendant* detained one pair of oxen belonging to the said plaintiff, being the same replevied in this action. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

### *Form of a Complaint in Ejectment, on the Possession of the Plaintiff.*

*Peter Plaintiff* complains that he was possessed of a certain piece of land, of the following description, [*insert description,*] and that *Daniel Defendant* unlawfully detains the said land from him. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

### *Form of a Complaint in Ejectment on the Possession of another.*

*Peter Plaintiff* complains that *George Grantor* was possessed of a piece of land of the following description, to wit, [*insert description,*] that the title of the said *George Grantor* hath lawfully come to him, the said plaintiff, and that *Daniel Defendant* unlawfully detains the said land from him. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

### *Form of a Complaint in Ejectment for Dower.*

*Priscilla Plaintiff*, widow of *Peter Plaintiff*, complains that she was married to the said *Peter Plaintiff*, and that the said *Peter Plaintiff* is dead, and that during the marriage, the said *Peter Plaintiff* was possessed in absolute property of a certain piece of land of the following description, [*insert description.*] By means of all which the said *Priscilla Plaintiff* is entitled to dower in the said land, which dower *Daniel Defendant* unlawfully detains from her. All which the said plaintiff is ready to prove.

PRISCILLA PLAINTIFF.

Page 41, sec. 13.

### *Form of a Complaint in Ejectment upon Title.*

*Peter Plaintiff* complains that he is entitled to a piece of land, of the following description, [*insert description,*] by virtue of a deed herewith

filed, from *Daniel Defendant*, to him [or to *George Grantor*, whose title hath lawfully come to the said plaintiff,] and that the said *Daniel Defendant* unlawfully detains the said land from him. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

*Form of a Complaint in Ejectment upon Title derived from the Sheriff.*

*Peter Plaintiff* complains that a judgment was heretofore obtained by *Paul Pursuer* against one *Daniel Defendant*, in the court of ———, in an action of debt, as will appear by a copy thereof, herewith filed, that an execution was issued thereon, directed to *David Diligent*, sheriff of ———, and that the said sheriff, in pursuance thereof, sold certain lands of the said *Daniel Defendant* to *Peter Purchaser*, whose title hath since lawfully come to the said plaintiff, and that the lands so sold, are of the following description, [insert description,] and that the said *Daniel Defendant* detains the said lands from the said plaintiff. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

*Form of a Complaint in Ejectment against a Tenant, who holds over.*

*Peter Plaintiff* complains that he was possessed of a piece of land of the following description, that is to say, [insert description,] that he leased the same to *Daniel Defendant*, for a term which expired on the ——— day of ———, and that the said *Daniel Defendant* unlawfully detains the said land from him. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

*Same by an Assignee of the Landlord against an Assignee of the Tenant.*

*Peter Plaintiff* complains that *George Grantor* was possessed of a piece of land of the following description, that is to say, [insert description,] that the said *George Grantor* leased the same to one *Richard Renter*, for a term which expired on the ——— day of ——— last, that the title of the said *George Grantor* in the premises, hath since come lawfully to the said *Peter Plaintiff*, and that of the said *Richard Renter* to one *Daniel Defendant*, and that the said *Daniel Defendant* unlawfully detains the said land from him. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

*Form of a Complaint in Ejectment against a Tenant who has forfeited his lease by non-payment of rent.*

*Peter Plaintiff* complains that he was possessor of a piece of land of the following description, that is to say, [insert description,] that he leased the same to *Daniel Defendant*, by an instrument of writing, which

[or a copy of which,] is hereby filed, and which contains a stipulation that in case the rent shall at any time be due, behind and unpaid, for the space of ———, after the day of payment provided for in the said instrument, that the said plaintiff should have right to re-enter upon the said land. That on the ——— day of ———, in the year one thousand ———, one year's rent of the land became due, and is still due, behind and unpaid at this time, being more than ——— after the said day of payment, by means whereof the said *Daniel Defendant* hath forfeited all title to the said land, notwithstanding which the said *Daniel Defendant* unlawfully detains the said land from him, the said plaintiff. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Page 54, sec. 17; page 129, sec. 26.

*Same where the Interest has been Assigned.*

*Peter Plaintiff* complains that *George Grantor* was possessed of a piece of land of the following description, that is to say, [insert description,] that the said *George Grantor* leased the same to *Richard Rentor* by an instrument of writing, which, [or a copy of which,] is herewith filed, and which contains a stipulation that in case the rent shall be at any time due, behind and unpaid for the space of ——— after the day of payment provided for in the said instrument, that the said *George Grantor*, or his assigns, should have right to re-enter upon the said land. That on the ——— day of ——— one thousand ———, one year's rent of the said land became due, and is still due, behind, and unpaid, at this time being more than ———, after the said day of payment. That the title of the said *George Grantor*, in the premises, hath lawfully come to the said *Peter Plaintiff*, and that of the said *Richard Rentor* to *Daniel Defendant*, who has not paid the said rent, by means whereof he has forfeited all title to the said land, notwithstanding which the said *Daniel Defendant* unlawfully detains the said land from him, the said *Peter Plaintiff*. All of which he is ready to prove.

PETER PLAINTIFF.

Page 54, sec. 17; page 129, sec. 26.

*Form of a Complaint in Damages to Real Property.*

*Peter Plaintiff* complains that he was possessed of a piece of land of the following description, that is to say, [insert description,] and that *Daniel Defendant* came upon the said land and cut down ten trees, [or pulled down a house, or consumed the grass with his cattle, or whatever else the injury may have been,] by means whereof the said plaintiff hath sustained damage. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

*Form of a Complaint in Damages to Real Property not in actual possession of the Plaintiff.*

*Peter Plaintiff* complains that he was possessed of a piece of land of the following description, that is to say, [*insert description.*] and rented the same to *Richard Rentor*, for a term of — years, that during the said term, and while the said *Richard Rentor* was in possession of the said land, under the said renting, *Daniel Defendant* came upon the said land and cut down — trees, by means whereof the said plaintiff hath sustained damage. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Page 54, sec. 19.

*Form of a Complaint in Damages to Personal Property.*

*Peter Plaintiff* complains that he was possessed of [*or owned,*] a pair of oxen, and that *Daniel Defendant* took the same out of his possession, and still detains them, whereby he hath sustained damage. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

*Form of a Complaint in Damages for Injuries to the Domestic Relations.*

*Peter Plaintiff* complains that *Daniel Defendant* beat *Philip Plaintiff*, the son [*or servant*] of said *Peter Plaintiff*, so severely that the said *Philip* was unable to render to the said *Peter* his accustomed services, as by reason of the relation subsisting between them, he ought to do, whereby the said plaintiff hath sustained damage. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

N. B. *The above forms of complaints are only models or specimens, and may be changed or modified, or new ones invented upon similar principles, to be used in cases not herein provided for.*

*Form of an Answer denying the Facts of the Complaint.*

*Daniel Defendant* denies the truth of all the allegations in the complaint of *Peter Plaintiff*, against him.

DANIEL DEFENDANT.

*Form of an Answer, denying the legal right of the Plaintiff to recover, and also denying the truth of the facts alledged in the complaint*

*Daniel Defendant*, says that supposing all the allegations, contained in the complaint of *Peter Plaintiff* against him, to be true, yet the said *Peter Plaintiff* has no legal right to recover against him in this action,\* and he also denies the truth of all the allegations contained in the said complaint.

DANIEL DEFENDANT.

The words after the asterisk (\*) are to be omitted when it is intended to admit the facts.

*Specimen of an Answer shewing new facts, constituting two defences.*

*Daniel Defendant* denies the right of *Peter Plaintiff* to recover in this action, because he says that after the occurring of the facts stated in the complaint, it was agreed between the said *Daniel Defendant* and the said *Peter Plaintiff*, that the said *Daniel Defendant* should give, and the said *Peter Plaintiff* receive ——— dollars, in satisfaction of the injury complained of in the said complaint, and that the said *Daniel Defendant* hath actually paid, and the said *Peter Plaintiff* received the said sum of money.

And also because the injury complained of in the complaint, was committed, and the cause of action accrued more than ——— years before the commencement of this action.

All which the said defendant is ready to prove.

DANIEL DEFENDANT.

*Form of an Answer alledging Payment.*

*Daniel Defendant* denies that *Peter Plaintiff* is entitled to recover in this action against him, because he says that he hath paid the debt in the complaint mentioned, to the said *Peter Plaintiff*. And this the said defendant is ready to prove.

DANIEL DEFENDANT.

*Form of an Answer alledging Performance of a Contract.*

*Daniel Defendant* denies that *Peter Plaintiff* is entitled to recover against him in this action, because he says that *he* has performed whatever he was required to perform, by virtue of the contract, in the complaint mentioned. And this the said defendant is ready to prove.

DANIEL DEFENDANT.

If the defendant be only a surety or the defendants be several, sued together, for the default of one, instead of *he*, in *italics*, say *the said Daniel Defendant*, or whatever else may be the name of the party charged with a default.

*Form of an Answer alledging Illegality of Consideration.*

*Daniel Defendant* denies that *Peter Plaintiff* is entitled to recover against him in this action, because, he says, that the contract in the complaint mentioned, had relation to the slave-trade, in this, that it was a contract to furnish rice to a vessel employed in the slave-trade, and that the parties to the contract well knew that such was the case. And this the defendant is ready to prove.

DANIEL DEFENDANT.

*Form of an Answer relying on lapse of time.*

*Daniel Defendant* denies that *Peter Plaintiff* is entitled to recover

against him in this action, because, he says, that the cause of action in the complaint mentioned, accrued more than ——— years before the commencement of this action. And this the defendant is ready to prove.

DANIEL DEFENDANT.

*Form of a General Reply.*

*Peter Plaintiff* denies that the allegations contained in the answer of *Daniel Defendant* to his complaint, furnish a sufficient defence to this action, and he also denies the truth of the said allegations.

PETER PLAINTIFF.

See also the first and second forms of answers, page 166.

*Specimen of a Reply of new facts.*

*Peter Plaintiff* denies that the answer of *Daniel Defendant* is sufficient to prevent his recovery, because, he says, that the he said *Peter Plaintiff*, was out of the colony of Maryland in Liberia, during part of the time which elapsed between the accruing of the cause of action in the complaint mentioned and the commencement of this action, and that the remainder of the time which so elapsed does not amount to ——— years. And this the plaintiff is ready to prove.

PETER PLAINTIFF.

N. B. All replies, complaints, and answers must be endorsed on the back with the name of the case, in the manner of the Orders on page 170.

*Form of a Writ of Arrest, for not obeying a Summons.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to arrest the body of *Charles Careless*, and bring him before the Court of Monthly Sessions, for, &c. immediately, to answer for disobeying a writ of summons issued out of this court, and duly served on him, requiring him to appear before the court as a witness in a case between *Peter Plaintiff* and *Daniel Defendant*, [or for disobeying your summons to attend this court as a jurymen, or additional jurymen,] and have you there this writ.

Issued by the special order of this court, this ——— day of ———, in the year one thousand ———.

{ Place of }  
{ the seal. }

PHILIP PENMAN,  
Clerk of said Court.

The above form may be easily changed to apply to any other of the cases mentioned, page 61, sec. 6.

*Form of a Summons for a Witness.*

Maryland in Liberia to *Charles Careless*, Greeting:

You are hereby summoned to appear before the court, &c. on the

—— day of —— next, to testify in a case between *Peter Plaintiff* and *Daniel Defendant*.

Issued this —— day of ——, in the year one thousand ——.

{ Place of }  
 { the seal. }

PHILIP PENMAN,  
 Clerk of said Court.

*Form of a Summons to produce a Paper.*

Maryland in Liberia, to *Charles Careless*, Greeting:

You are hereby summoned to appear before the court, &c. on, &c. to testify, if necessary, in a case between *Peter Plaintiff* and *Daniel Defendant*, and you are commanded to bring with you, [*insert description of paper wanted*], to be used as evidence in the said cause.

Issued this —— day of ——, in the year one thousand ——.

PHILIP PENMAN,  
 Clerk of said Court.

{ Place of }  
 { the seal. }

Page 68, sec. 32.

*Form of a Commission to take Testimony.*

Maryland in Liberia, to *Charles Careful*, named by the plaintiff, and *Philip Prudent*, named by the defendant, Greeting:

You are hereby authorized to take and reduce to writing, the examinations and depositions of all witnesses, who may be produced to you by either party, in a case wherein *Peter Plaintiff* is plaintiff, and *Daniel Defendant* is defendant, now pending in the Court of Monthly Sessions for the Colony of Maryland in Liberia, and send the said testimony with all papers mentioned therein, or connected therewith, and this writ to the said court, as soon as conveniently may be.

Issued the —— day of ——, one thousand ——.

PHILIP PENMAN,  
 Clerk of the Court.

{ Place of }  
 { the seal. }

*Commissioners' Promise.*

We and each of us, do solemnly, sincerely and truly promise and affirm, that we will truly, faithfully and without partiality, take the examinations and depositions, of all witnesses produced and examined before us, by virtue of the annexed commission.

CHARLES CAREFUL, }  
 PHILIP PRUDENT, } *Commissioners.*



*Clerk's Promise.*

I do solemnly, sincerely, and truly promise and affirm, that I will truly, faithfully, and without partiality take, write down, and transcribe the depositions and examinations, of all and every witness examined, before the commissioners named in the annexed commission, so far as I am directed and employed by the said commissioners or any of them so to do.

THOMAS TRUSTY,  
Clerk to the Commissioners.

*Form of Letter Rogatory.*

Maryland in Liberia, to ———, Greeting:

You are hereby most respectfully requested to cause to appear before you, [*insert names of witnesses,*] and to examine them upon the interrogatories and cross-interrogatories herewith sent, and to cause their examinations and depositions to be reduced to writing, and send the same with all papers mentioned therein or connected therewith, to the court of, &c. as soon as conveniently may be, to be used as evidence in a case in the same court, depending between ———, plaintiff, and ———, defendant, and upon occasion we shall gladly render you the like service.

Issued the ——— day of ———, in the year one thousand ———.

{ Place of }  
{ the seal. }

PHILIP PENMAN,  
Clerk of said Court.

N. B. Any other form more agreeable to the authority to whom this request is addressed may be adopted.

*Form of Bond to return goods taken in Replevin and restored to Defendant, on motion.*

Know all men, that we, *Daniel Defendant* and *Samuel Surety*, do bind ourselves to *Peter Plaintiff* that the said *Daniel Defendant*, or his administrators, will return to the said *Peter Plaintiff*, or his administrators, the goods which have been or may be restored to the said *Daniel Defendant*, by virtue of an order of the court ——— made on, &c. in a case wherein the said *Peter Plaintiff* was plaintiff, and the said *Daniel Defendant*, defendant, if any court having jurisdiction on the said cause shall so direct. The penalty of this bond is ——— dollars.

Witness, PHILIP PENMAN.

DANIEL DEFENDANT,  
SAMUEL SURETY.

Page 77, sec. 2.

*Form of an Order of Court to restore the Goods.*

<i>Peter Plaintiff,</i>	}	Action of replevin in the Court of Monthly Sessions for the Colony of Maryland in Liberia.
vs.		
<i>Daniel Defendant.</i>		

In this case, it is ordered, that the sheriff restore to the defendant, the

goods heretofore delivered to the plaintiff by virtue of the writ of replevin in this case, the defendant having first given security in the usual manner. By order of the court.

{ Place of }  
 { the seal. }

PHILIP PENMAN, Clerk.

The security has been given,

PHILIP PENMAN, Clerk.

Received the following goods. [ *Insert a list.* ]

DANIEL DEFENDANT.

Page 77, sec. 1, 2.

*Form of a Rule of Court referring a case to Arbitration.*

*Peter Plaintiff,* } Action of —, in the Court of Monthly  
 vs. } Sessions for the Colony of Maryland in  
*Daniel Defendant.* } Liberia.

On the application of the parties in this cause it is ruled and ordered, that the same be referred to *Philip Prudent* and *Henry Honest*, as arbitrators under the first section, of the fifteenth chapter, of the second title of the ordinance for the redress of injuries in the Colony of Maryland in Liberia.

By order of the court.

{ Place of }  
 { the seal. }

PHILIP PENMAN, Clerk.

*Form of an Order for the Sale of Perishable Property.*

*Peter Plaintiff,* } Action of —, in the Court of Monthly  
 vs. } Sessions for the Colony of Maryland in  
*Daniel Defendant.* } Liberia.

It appearing that the following goods [*insert a description,*] which have been taken by virtue of the attachment in this cause, are of a perishable nature, [*or expensive to keep,*] and that it is therefore for the interest of the parties that the same should be sold, it is ordered that they be sold, and that a writ of sale be issued for that purpose.

JOHN JUST,

One of the Judges of the said Court.

Page 77, sec. 3.

*Form of a Petition for a rule to Arbitrate, where there is no case in court.*

The undersigned respectfully pray the court of — that a rule of court may be made, referring all matters in dispute between them, to *Philip Prudent* and *Henry Honest* as arbitrators, under the first section, of the fifteenth chapter, of the second title of the ordinance for the redress of injuries in the Colony of Maryland in Liberia, and that a case may be docketed in said court, for the purpose of confirming the award

of the said arbitrators by a judgment, in which *Peter Plaintiff* may be made plaintiff, and *Daniel Defendant*, defendant.

PETER PLAINTIFF,  
DANIEL DEFENDANT.

*Form of the Rule in the same case, to be endorsed on the petition for Arbitration.*

*Peter Plaintiff,* } The court having seen and considered the  
vs. } within petition, it is therefore ruled and or-  
*Daniel Defendant.* } dered, that a case be docketed as in the mar-  
gin, and that all matters in dispute between *Peter Plaintiff* and *Daniel Defendant* shall be referred as therein prayed. By order of the Court.

{ Place of }  
the seal. }

PHILIP PENMAN, Clerk.

*Form of a Writ of Arrest issued by Arbitrators and an order of fine.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to arrest the body of *Charles Careless*, and bring him before us immediately to answer for, [insert the offence,] and have there this writ. Issued this — day of —, in the year one thousand —.

PHILIP PRUDENT,  
HENRY HONEST,

Arbitrators under a rule of court between — and —.

Approved, SAMUEL STRICT, Justice of the peace.

### *Return.*

I have arrested the body of *Charles Careless* by virtue of the within writ, and now have him before the arbitrators.

DAVID DILIGENT, Sheriff.

ORDERED, that *Charles Careless* pay a fine of — dollars for his offence within named.

PHILIP PRUDENT,  
HENRY HONEST,

Arbitrators as within.

Approved, SAMUEL STRICT, Justice of the peace.

### *Form of an Award.*

*Peter Plaintiff,* } In the Court of Monthly Sessions for the  
vs. } Colony of Maryland in Liberia.  
*Daniel Defendant.* }

The undersigned, having been appointed arbitrators in this case by rule of court, and have given due notice of the time and place of meeting, to the parties, and having heard and duly considered the allegations and proofs on both sides, do award and determine that a judgment be

entered in favour of — for — and also for — the costs of this arbitration, and all the costs of court.

PHILIP PRUDENT, } Arbitrators.  
HENRY HONEST, }

*Form of an Objection to an Award.*

Peter Plaintiff, }  
vs. } In the Court of Monthly Sessions for the  
Daniel Defendant. } Colony of Maryland in Liberia.

Daniel Defendant objects to the award filed in this case for the following reasons, that is to say, [insert reasons.]

Daniel Defendant makes oath, according to law, that the facts stated in the above instrument of writing are true, to the best of his knowledge and belief.

Sworn before SAMUEL STRICT, Justice of the peace.

*Form of an Order to set aside an Award.*

Peter Plaintiff, }  
vs. } In the Court of Monthly Sessions for the  
Daniel Defendant. } Colony of Maryland in Liberia.

The court having heard, and duly considered, the allegations and proofs of the parties in this case, and having considered the award, and the objections thereto, do order that the said award be set aside, and that the case be referred to —, with instructions, that, [insert instructions, or, that the case be tried by a jury.] By order of the Court.

{ Place of }  
{ the seal. }

PHILIP PENMAN, Clerk.

N. B. If there be no issue in the cause, the court may direct the parties to make up one.

*Form of a Rule of Reference without consent.*

Peter Plaintiff, }  
vs. } In the Court of Monthly Sessions for the  
Daniel Defendant. } Colony of Maryland in Liberia.

This case, presenting complicated accounts, not fitted to be unravelled by a jury, it is ruled and ordered by the court, that it be referred to Philip Prudent and Henry Honest, as arbitrators, under the first section, of the fifteenth chapter, of the second title of the ordinance to provide for the redress of injuries in the Colony of Maryland in Liberia.

By order of the court.

{ Place of }  
{ the seal. }

PHILIP PENMAN, Clerk.

*Form of a Writ of Execution.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to seize and expose to sale, the lands, goods, and chattels of *Daniel Defendant*, until you have raised the sum of —, with interest thereon, at the rate of — per cent. from the — day of — in the year —, until payment shall have been made, and the sum of — costs, and if you cannot find any lands, goods, or chattels of the said *Daniel Defendant*, to arrest his body and bring him before the court of, &c. or some judge thereof, to be dealt with according to law, unless he will pay you the said sum of money, and interest, as aforesaid, or shew you property, to seize and sell for the same, and as soon as the said sum of money is paid or raised, you are to pay over the same to *Peter Plaintiff*, in satisfaction of a judgment he has obtained against the said *Daniel Defendant*, in the said court, [if issued by a justice of the peace, say, before me,] in an action of —, and how you shall execute this writ, you shall make known to the said court, &c. and have you there this writ.

Issued the — day of —, in the year one thousand —.

{ Place of }  
{ the seal. }

PHILIP PENMAN, Clerk.

N. B. The form of a schedule under a writ of execution is exactly that under an attachment, substituting the word 'execution' for 'attachment.'

*Form of a Writ of Sale.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to sell, to the best bidder, the property now in your hands by virtue of a writ of execution, [or attachment,] issued out of the court of, &c. at the suit of *Peter Plaintiff* against *Daniel Defendant*, or so much thereof, as will produce the sum of —, with interest after the rate of — per cent. per annum, from the — day —, in the year —, until payment is made, and the sum of — costs, and to pay over the said sums, or the proceeds of said sale, if not sufficient, to the said *Peter Plaintiff*, and how you shall execute this writ make known to the said court, on the, &c. and have there this writ.

Issued this — day of —, in the year one thousand —.

{ Place of }  
{ the seal. }

PHILIP PENMAN,  
Clerk of said Court.

*Form of a Writ of Sale of perishable or expensive goods, under an order in the form, on page 171.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to sell the following perishable [*or expensive*] goods [*insert list*] now in your hands, by virtue of a writ of attachment, issued out of the court of — at the suit of *Peter Plaintiff* against *Daniel Defendant*, and to have the proceeds thereof, and this writ, before the said court, as soon as conveniently may be, and at least on the —.

Issued this — day of —, in the year one thousand —.

{ Place of }  
{ the seal. }

PHILIP PENMAN,  
Clerk of said Court.

*Form of a Writ of Possession.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby required to put *Peter Plaintiff* in possession of the following property, [*insert list*], which is now in possession of *Daniel Defendant*, and to the possession of which, the said *Peter Plaintiff* is entitled, by virtue of a judgment of the court of —, in an action of —, in which — was plaintiff and — defendant, which judgment was rendered at — term, in the year eighteen hundred and —, and how you shall execute this writ, make known to the said court, on, &c. and have there this writ.

Issued the — day of —, one thousand —.

{ Place of }  
{ the seal. }

PHILIP PENMAN, Clerk.

*Form of a Writ of Possession, in favour of a purchaser at Sheriff's Sale, directed to an elizor.*

Maryland in Liberia, to *Thomas Trusty*, Greeting:

You are hereby commanded to put *Paul Purchaser* in possession of the following property, [*insert the list*], now in the possession of *David Diligent*, sheriff of the Colony, which the said *Paul Purchaser* has bought at a sheriff's sale, held by the said *David Diligent*, by virtue of a writ of —, issued out of the court of —, in a case wherein — was plaintiff and — defendant, and how you shall execute this writ make known to the said court, on, &c. and have there this writ. And you are hereby appointed an elizor, with the powers of a sheriff in the premises.

Issued by the special order of this court, this — day of —, in the year one thousand —.

{ Place of }  
{ the seal. }

PHILIP PENMAN,  
Clerk of said Court.

*Same, directed to Sheriff.*

Maryland in Liberia, to the Sheriff of the Colony, Greeting:

You are hereby commanded to put *Paul Purchaser* in possession of the following property, [*insert list,*] now in possession of *Daniel Defendant*, which the said *Paul Purchaser* has bought at a sheriff's sale, held by ———, by virtue of a writ of ———, issued out of the court of ———, in a case wherein ——— was plaintiff and the said *Daniel Defendant*, defendant, and how you shall execute this writ, make known to the said court, on, &c. and have there this writ.

Issued by special order of the court, this ——— day of ———, in the year one thousand ———.

{ Place of }  
{ the seal. }

PHILIP PENMAN, Clerk.

Page 87, sec. 15.

*Form of a Discharge of an Insolvent.*

*Daniel Defendant*, having complied with the law relative to insolvent debtors, is hereby discharged from arrest, and from all future arrests, for any debts he may now owe, or in any action to which he may now be liable, except actions for injuries to the person, reputation, or domestic relations of any person.

Dated the ——— day of ———, in the year one thousand and ———.

JOHN JUST,

Judge of the Court of Monthly Sessions.

*Form of an Appointment of a Temporary Trustee, for the benefit of the Creditors of an Insolvent Debtor.*

*Daniel Defendant*, an insolvent debtor, having been discharged, *Henry Honest* is hereby appointed to take charge of his property, and call a meeting of his creditors to elect a trustee to act for their benefit.

JOHN JUST,

Judge of the Court of Monthly Sessions.

*Form of a Certificate of the Election of a Trustee.*

To *John Just*, judge of the Court of, &c.

These are to certify, that at a meeting of the creditors of *Daniel Defendant*, an insolvent debtor discharged by you, called by *Henry Honest*, the temporary trustee by you appointed, *Henry Honest* was duly elected trustee for the benefit of said creditors.

PETER PLAINTIFF,

CHARLES CREDITOR,

HENRY HONEST,

Creditors present.

*Form of Trustees' Bond.*

Know all men, that we, *Henry Honest* and *Samuel Surety*, do bind ourselves to the creditors of *Daniel Defendant*, an insolvent debtor, and to each of them separately, that the said *Henry Honest* shall and will, well and faithfully perform the duties of trustee, for the benefit of the creditors of the said *Daniel Defendant*, and that we will indemnify them from all loss which they may sustain, by reason of any misconduct of the said *Henry Honest*, as trustee as aforesaid. The penalty of this bond is — dollars.

Witness our hands, this — day of —, in the year one thousand

HENRY HONEST,

Witness, JOHN JUST.

SAMUEL SURETY.

*Form of Order confirming Trustee.*

*Henry Honest* having been duly elected trustee for the benefit of the creditors of *Daniel Defendant*, an insolvent debtor, and having given bond and security according to law, all the property, real and personal, of the said *Daniel Defendant*, is by operation of law, vested in the said *Henry Honest*, as if the said *Daniel Defendant* were dead, and the said *Henry Honest* were his administrator, and the said *Henry Honest* is hereby ordered to take possession of the said property, and administer it, in the same manner as an administrator, except that he shall make no difference between real and personal property.

JOHN JUST,

Judge of the Court of Monthly Sessions.

*Form of the Oath of an Insolvent Debtor.*

You, *Daniel Defendant*, do solemnly promise and swear, in the presence of the omniscient and heart-searching God, that the schedules which you have produced before me, contain a just and true account of your debts and property, and of the debts due to you, as far as you can at present ascertain them, and that you will disclose any property or debts, not mentioned in your said schedules, which you may hereafter discover, and that you have not secreted any thing belonging to you, and have not in expectation of making the application, which you have this day made, for a discharge as an insolvent debtor, done any act to diminish your estate, or injure your creditors, or to prevent them, or any of them, from obtaining their just proportions of your property, as you will answer the same to the great Judge of quick and dead.

I swear to the above oath, the — day of —, in the year one thousand —.

DANIEL DEFENDANT.



Subscribed by *Daniel Defendant*, and sworn to, the day above written, before,

JOHN JUST,  
Judge of the Court of Monthly Sessions.

*Form of Bond, for the appearance of an Insolvent Debtor.*

Know all men, that we, *Daniel Defendant* and *Frederick Friendly*, do bind ourselves to the creditors of the said *Daniel Defendant*, an insolvent debtor, and to each of them separately, that the said *Daniel Defendant* shall, and will upon due notice, appear in the court of, &c. at any time within twelve months hereafter, to answer any allegations or interrogatories that they, or any of them, may file against him, and in default, that we will pay all the debts of the said *Daniel Defendant*, not exceeding the whole penalty of this bond. The penalty of this bond is — dollars.

Witness our hands this — day of —, in the year one thousand —.  
DANIEL DEFENDANT,  
FREDERICK FRIENDLY.

Signed in my presence and approved,  
JOHN JUST, Judge of the Court of Monthly Sessions.

*Form of a Certificate to be given to a New Emigrant for a Vacant Farm lot.*

This is to certify, that *Nathan Newcome* has applied to me for a farm lot, under the provisions of the thirty-fifth section of the ordinance for the temporary government of the Colony of Maryland in Liberia, and that I have allotted to him the lot described as follows, that is to say, [*insert description*], the said lot being now vacant and unimproved, which is to be his upon condition, that within two years from this date, he shall clear one acre of the said lot, and erect a substantial native house thereon, to the satisfaction of the agent, otherwise the lot is to be forfeited to the government. Given under my hand, this — day of —, in the year one thousand and —.

JOHN B. RUSSWURM,  
Governor of the Colony of Maryland in Liberia.

*Same for an Improved lot.*

This is to certify, that *Nathan Newcome* has applied to me for a farm lot, under the provisions of the thirty-fifth section of the ordinance for the temporary government of the Colony of Maryland in Liberia, and that I have allotted to him the lot described as follows, that is to say, [*insert description*], which lot is improved in the following manner, that is to say, [*describe improvements*], and which lot is to be his upon condition, that he puts, or causes to be put, improvements upon another lot,

to be designated by the agent, equal to those above mentioned, and to any which may hereafter be put upon the above described lot at the expense of the government, otherwise the above described lot is to be forfeited to the government. Given under my hand this — day of —, in the year one thousand —.

JOHN B. RUSSWURM,  
Governor of the Colony of Maryland in Liberia.

*Same for a Town lot.*

This is to certify, that *Nathan Newcome* has applied to me for a town lot, under the provisions of the thirty-fifth section of the ordinance for the temporary government of the Colony of Maryland in Liberia, and that I have allotted to him the lot described as follows, that is to say, [*insert description*,] which is to be his on condition that the same is within one year from this date, cleared, fenced, and a good house, to be approved by the agent, erected thereon, otherwise the lot shall be forfeited to the government. Given under my hand, this — day of —.

JOHN B. RUSSWURM,  
Governor of the Colony of Maryland in Liberia.

*Form of a Deed to a New Emigrant, from the Society.*

Know all men, that whereas a lot described as follows, that is to say, [*insert description*,] was heretofore assigned to *Nathan Newcome*, conditionally, under the provisions of the thirty-fifth section of the ordinance for the temporary government of the Colony of Maryland in Liberia, and whereas, the said *Nathan Newcome* hath surrendered to me the certificate of the said lot, which was then given to him, and hath performed all the conditions specified in the said certificate, and required by law, now, therefore, in consideration thereof, I do, in the name, and on the behalf of the Maryland State Colonization Society, grant and convey the said lot, to the said *Nathan Newcome*, to be held by him in absolute property. Given under my hand, this — day of —, in the year one thousand —.

JOHN B. RUSSWURM,  
Governor of the Colony of Maryland in Liberia.

*Form of a Writ of Assistance, requiring the Sheriff to summon all persons to suppress a Riot.*

Maryland in Liberia, to the sheriff of, &c. Greeting:

Whereas it hath been made to appear to the undersigned, two justices of the peace for, &c. that there is *danger of* a riot in the township of —, now, therefore, you are required to summon all male persons to your assistance, and immediately to quell and suppress all riots and un-

lawful assemblies, and maintain the authority of government, in the said township.

Issued this — day of —, in the year one thousand —.

SAMUEL STRICT,

HENRY HONEST,

Justices of the peace.

*Form of a Warrant of Arrest, against an Offender.*

Maryland in Liberia, to *Thomas Trusty*, constable for —.

You are hereby commanded to arrest the body of *Charles Careless*, charged upon the oath of *Thomas Testify*, with [insert description of the offence,] and bring him before me, or some other justice of the peace for this colony, [or county,] to answer for the said offence, and for so doing, this shall be your warrant.

Issued this — day of —, in the year one thousand and —.

SAMUEL STRICT,

Justice of the peace for —.

If the offence be one which the justice has power to try, and dispose of finally, he is to do, so and endorse the conviction or acquittal on the warrant.

*Form of a Conviction.*

*Charles Careless* is convicted of the within offence, and sentenced to, [insert sentence,] this — day of —, in the year one thousand —.

SAMUEL STRICT,

Justice of the peace.

*Form of an Acquittal.*

*Charles Careless* is acquitted of the within offence on this — day of —, in the year one thousand —.

SAMUEL STRICT,

Justice of the peace.

If the offence be one which the justice hath not jurisdiction to try, and finally dispose of, and he is satisfied there are not sufficient grounds to hold the accused to bail, he is to endorse on the warrant, '*warrant discharged*,' and sign as above. If he thinks that there are sufficient grounds to hold the accused to bail, he is to require him to execute a bail bond, with sufficient security, in his discretion, in the following form:—

*Form of a Bail Bond to answer a Criminal Accusation.*

Know all men, that we, *Charles Careless* and *Frederick Friendly*, do bind ourselves to Maryland in Liberia, that the said *Charles Careless* will appear before the court of —, for —, on the — day of —, in the year one thousand —, to answer a charge of [insert description

*of offence as in warrant,]* and will remain in said court until duly discharged, and will if convicted of the said offence, surrender himself into the custody of the sheriff of ———, to undergo the sentence of the law. The penalty of this bond is ——— dollars. Witness our hands, this ——— day of ———, in the year one thousand ———.

Witness, SAMUEL STRICT.

CHARLES CARELESS,  
FREDERICK FRIENDLY.

If the offence be capital, or the accused cannot find proper bail, the justice of the peace must commit him.

*Form of a Commitment, to answer a Criminal Accusation.*

Maryland in Liberia, to ———, Greeting:

Receive into your custody, the body of *Charles Careless*, herewith sent, and him safe keep, so that you have his body before the court of ———, for ———, on the ——— day of ———, in the year one thousand ———, to answer a charge of [*insert description of offence, as in warrant,]* unless the said *Charles Careless* shall have been, before that time, discharged out of your custody, in due course of law, and for so doing, this shall be your sufficient warrant. Issued this ——— day of ———, in the year one thousand ———.

SAMUEL STRICT,  
Justice of the peace.

If the justice has doubts of the propriety of fully committing, or finally discharging the accused, he may commit him for further examination.

*Form of a Commitment for further examination.*

Maryland in Liberia, to ———, Greeting:

Receive into your custody, the body of *Charles Careless*, herewith sent, charged on the oath of *Thomas Testify*, with, [*insert description of offence,]* and him safe keep, until he is discharged out of your custody, in due course of law, so that he may be brought before the proper authorities, for further examination touching the said charge, and for so doing, this shall be your sufficient warrant. Issued this ——— day of ———, in the year ———.

SAMUEL STRICT,  
Justice of the peace.

*Application for a Distress Warrant.*

*Thomas Tenant,*

Dr. to *Louis Landlord,*

To one month's rent of my lot, situate on, &c.,

\$10

Credit,

Cash,

5

Balance due,

\$ 5

Maryland in Liberia, to wit:

Be it remembered, that on this, &c., *Louis Landlord* personally appeared before the subscriber, a justice of peace, and made oath according to law that the above account is just and true, and that *Thomas Tenant* is justly indebted to him in the full sum of *five* dollars for rent.

Sworn before      HENRY HONEST,  
Justice of the peace.

To *Henry Honest*, justice of the peace:

I hereby apply for a warrant of distress against *Thomas Tenant*, to recover the amount of rent due to me agreeably to the above warrant and affidavit.

LOUIS LANDLORD.

### *Warrant of Distress.*

To *Charles Careful*, constable:

You are hereby directed to seize the goods of *Thomas Tenant*, now being on the premises leased by him from *Louis Landlord*, or which have been on the same within thirty days, as a distress for *five* dollars rent due to the said *Louis Landlord*, and if the said rent is not paid, to sell the said goods according to law.

HENRY HONEST,  
Justice of the peace.

### *Claim of Goods wrongfully Attached.*

To the Court of, [*insert title of the court.*]

Clement Claimright gives the court to understand that he claims the goods, of which a schedule is hereunto annexed, which have been attached as the property of *Daniel Defendant* at the suit of *Peter Plaintiff*, and asserts that they are his property, and this he is ready to prove.

CLEMENT CLAIMRIGHT.

Schedule of the goods claimed by Clement Claimright as his own, which have been attached as the property of *Daniel Defendant*, at the suit of *Peter Plaintiff*, that is to say—

1 bay mare;  
1 saddle and bridle, &c.

CLEMENT CLAIMRIGHT.

Sec. 44, p. 133; also sec. 66, p. 136.

### *Answer to the above Claim.*

*Peter Plaintiff* denies that the goods attached at his suit as the property of *Daniel Defendant* and claimed by *Clement Claimright*, are the property of the said *Clement Claimright*.

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